

1                   UNITED STATES DISTRICT COURT  
2                   NORTHERN DISTRICT OF OHIO  
3                   EASTERN DIVISION AT CLEVELAND

4                   UNITED STATES OF AMERICA,           CASE NO. 1:20-mj-4203

5                   Plaintiff,

6                   vs.    Thursday, June 18, 2020

7                   TANDRE BUCHANAN, JR.,

8                   Defendant.

9  
10                  TRANSCRIPT OF PRELIMINARY/DETENTION HEARINGS  
11                  HELD VIA VIDEOCONFERENCE  
12                  BEFORE THE HONORABLE THOMAS M. PARKER  
13                  UNITED STATES MAGISTRATE JUDGE

14                  APPEARANCES:

15                  For the Plaintiff:                         Scott C. Zarzycki,  
16    Assistant United States Attorney

17                  For the Defendant:                         Steven L. Bradley, Esq.

18  
19  
20                  Official Court Reporter:                 Lance A. Boardman, RDR, CRR  
21    United States District Court  
22    801 West Superior Avenue  
23    Court Reporters 7-189  
24    Cleveland, Ohio 44113  
25    216.357.7019

26  
27                  Proceedings recorded by mechanical stenography; transcript  
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12:08:21 1 (On the record at 12:08 p.m.)

12:08:25 2 THE COURTROOM DEPUTY: The case before the

12:08:26 3 Court is 20-mj-4203, United States of America vs. Buchanan,

12:08:31 4 Jr.

12:08:33 5 THE COURT: All right. Let me begin by having

12:08:37 6 appearances of counsel noted for the record. First with the

12:08:39 7 United States.

12:08:39 8 MR. ZARZYCKI: Good afternoon, Your Honor.

12:08:42 9 Scott Zarzycki on behalf of the United States.

12:08:47 10 THE COURT: Good afternoon, Mr. Zarzycki.

12:08:54 11 MR. BRADLEY: Good afternoon, Your Honor.

12:08:55 12 Steven Bradley on behalf of the defendant, Mr. Tandre

12:08:59 13 Buchanan, Jr.

12:09:01 14 THE COURT: And good afternoon, Mr. Bradley.

12:09:08 15 Good afternoon, Mr. Buchanan.

12:09:10 16 My name is Tom Parker. I'm the magistrate judge

12:09:12 17 assigned to conduct a detention and preliminary hearing in

12:09:16 18 this case today.

12:09:17 19 I can see from the gallery view on my computer that we

12:09:26 20 have a number of people listening in. I'm going to instruct

12:09:29 21 everybody who's listening in now to place their phones on

12:09:32 22 mute.

12:09:39 23 We are proceeding today by way of videoconference in

12:09:42 24 light of what's going on with the COVID-19 pandemic. The

12:09:48 25 Congress has authorized the United States Courts to use

12:09:53 1 video proceedings in order to best protect the health and  
12:09:55 2 safety of all the participants who may otherwise -- would  
12:10:00 3 otherwise have had to come and personally appear in court.

12:10:05 4 I'd like to inquire of the defense, Mr. Bradley,  
12:10:07 5 whether the defense agrees to participate in today's hearing  
12:10:11 6 by means of video.

12:10:13 7 MR. BRADLEY: We do agree, Judge. I had a  
12:10:16 8 private conversation with my client prior to today's  
12:10:20 9 hearing, and we discussed, amongst other things, this very  
12:10:24 10 issue. And we would consent to proceeding by  
12:10:26 11 videoconference.

12:10:28 12 THE COURT: And, Mr. Buchanan, can you please  
12:10:30 13 confirm for the record what your lawyer has just stated,  
12:10:34 14 that you also agree to proceed by way of videoconference?

12:10:39 15 THE DEFENDANT: Yes, Your Honor, I agree.

12:10:42 16 THE COURT: All right. Thank you.

12:10:42 17 Let me just indicate some of the ground rules for the  
12:10:46 18 videoconference.

12:10:47 19 What we've discovered now after several weeks of  
12:10:50 20 proceeding this way is that it can be difficult for the  
12:10:54 21 court reporter to make an accurate record at times because  
12:10:59 22 of microphone sensitivity issues. So anyone who's going to  
12:11:03 23 speak on the record today needs to make sure they're  
12:11:07 24 speaking directly at their device so that the microphone can  
12:11:11 25 best pick up what they are saying.

12:11:14 1 Second, it's important that anyone who is speaking be  
12:11:23 2 allowed to speak without any interruption from anyone else,  
12:11:27 3 so if people who are now connected to this hearing make  
12:11:31 4 sound on their end and if their phone is not muted, that  
12:11:37 5 little bit of sound can interrupt the flow of the audio for  
12:11:41 6 the speaker.

12:11:44 7 It's essential that the Government's lawyer, that  
12:11:48 8 Mr. Buchanan as the person being charged, and that  
12:11:52 9 Mr. Bradley as the defense attorney and, most importantly,  
12:11:58 10 the court reporter be able to hear everything that's said,  
12:12:01 11 so please do abide by the Court's indicated rules that you  
12:12:05 12 should not speak, and, moreover, do your very best not to  
12:12:10 13 even make any sounds while you are not speaking so that we  
12:12:13 14 will not interrupt the audio feed.

12:12:15 15 Let me indicate to those who are actual participants  
12:12:18 16 as opposed to those listening in that if you are an actual  
12:12:24 17 participant, meaning Government's attorney, defense  
12:12:28 18 attorney, defendant, Pretrial Services officer, and court  
12:12:33 19 reporter, my courtroom deputy and me, if you're not able to  
12:12:37 20 hear what's being said, please raise your hand so we can  
12:12:41 21 stop and find out what is causing a problem with your audio  
12:12:44 22 transmission.

12:12:45 23 If you get disconnected, we will see that you  
12:12:52 24 disappeared from the gallery view, and we will stop so we  
12:12:55 25 can make sure that we can reconnect with you if you get

12:12:58 1 disconnected. I obviously cannot make that same  
12:13:01 2 representation to those who may be listening in.

12:13:04 3 And again, if you are listening in and you have not  
12:13:06 4 yet done so, please find a button on your iPhone or your  
12:13:13 5 smartphone by which you can mute the audio transmission from  
12:13:17 6 your device and click that now.

12:13:18 7 All right. We are here in court today, virtually, for  
12:13:27 8 a preliminary hearing and a detention hearing on the  
12:13:31 9 Government's motion for detention. The purpose of the  
12:13:33 10 preliminary hearing is to permit the Court to determine  
12:13:36 11 whether there's probable cause to believe the offense  
12:13:39 12 charged in the complaint has been committed and that the  
12:13:44 13 defendant, the person being charged, is the one responsible  
12:13:47 14 for committing that offense.

12:13:50 15 The preliminary hearing is not a finding of guilt.  
12:13:53 16 It's not a determination that someone is not guilty. It's  
12:13:59 17 simply a probable cause determination.

12:14:01 18 If the Court were to find probable cause, the case  
12:14:05 19 would then be referred to the grand jury for further  
12:14:08 20 proceedings, and the grand jury would then make its own  
12:14:16 21 probable cause determination. If the grand jury found  
12:14:18 22 probable cause, they would then return a document known as  
12:14:21 23 an indictment, which would formally describe the charge  
12:14:23 24 against the individual. It's no more or less than that.

12:14:27 25 Let me inquire, Mr. Bradley, is the defense still

12:14:32 1 desiring to proceed today with a preliminary hearing?

12:14:35 2 MR. BRADLEY: Yes, Your Honor.

12:14:37 3 THE COURT: All right. Very well.

12:14:38 4 In addition to the preliminary hearing, the Court will  
12:14:41 5 be conducting a detention hearing under the requirements of  
12:14:44 6 the United States Bail Reform Act. The Government has moved  
12:14:47 7 for detention, and the Court must decide, utilizing the  
12:14:52 8 factors set forth in the Bail Reform Act, whether  
12:14:56 9 Mr. Buchanan should be granted release pending trial or  
12:14:58 10 should be detained pending trial.

12:15:01 11 So at this stage, in order to make sure that we've got  
12:15:05 12 all of the background issues appropriately addressed, let me  
12:15:09 13 ask Mr. Zarzycki to summarize the charges and the associated  
12:15:14 14 penalties.

12:15:16 15 MR. ZARZYCKI: Yes, Your Honor.

12:15:17 16 Mr. Buchanan is charged in the complaint with a count  
12:15:21 17 of interference with commerce by robbery, violation of Title  
12:15:26 18 Section 1951. That is punishable by a maximum term of  
12:15:34 19 imprisonment of 20 years, a maximum fine of \$250,000, a  
12:15:37 20 period of supervised release of up to three years, and a  
12:15:39 21 \$100 special assessment.

12:15:43 22 THE COURT: All right. And I'm assuming from  
12:15:44 23 the way you've described it, Mr. Zarzycki, that there is no  
12:15:48 24 mandatory minimum sentence that is associated with that  
12:15:50 25 charge.

12:15:51 1 MR. ZARZYCKI: That is correct, Your Honor.

12:15:54 2 THE COURT: All right. Now, Mr. Buchanan, I  
12:15:58 3 understand you previously received a copy of the complaint  
12:16:00 4 and the affidavit. Have you had an opportunity to review  
12:16:04 5 those documents with Mr. Bradley, your attorney?

12:16:09 6 THE DEFENDANT: Yes, sir, I have.

12:16:14 7 THE COURT: And do you understand, sir, that  
12:16:15 8 you have a Constitutional right to be represented by an  
12:16:16 9 attorney at every stage of the proceedings in this matter?

12:16:21 10 Now, it's my understanding that Mr. Buchanan was  
12:16:23 11 previously retained to serve as your legal counsel. Can you  
12:16:26 12 confirm for the record that you understand Attorney Bradley  
12:16:30 13 is here on your behalf serving as your legal counsel?

12:16:33 14 THE DEFENDANT: Yes, Your Honor, I confirm.

12:16:38 15 THE COURT: All right. Thank you.

12:16:38 16 Now, let me ask whether both the Government and  
12:16:40 17 defense have had a full opportunity to prepare and have had  
12:16:43 18 an opportunity to review the report of Pretrial Services as  
12:16:47 19 prepared by Pretrial Services Officer Stolarik?

12:16:58 20 MR. ZARZYCKI: The Government has had an  
12:17:00 21 opportunity to review it, yes, Your Honor. Thank you.

12:17:02 22 THE COURT: Thank you.

12:17:03 23 Mr. Bradley?

12:17:03 24 MR. BRADLEY: Judge, likewise, I've reviewed  
12:17:05 25 the report prepared by Pretrial Services and am otherwise

12:17:10 1 prepared to proceed.

12:17:11 2 THE COURT: All right. Very good.

12:17:12 3 Now, just by way of background, let me indicate to  
12:17:15 4 you, Mr. Buchanan, that at this hearing you have the right  
12:17:17 5 to cross-examine any Government witnesses that may be  
12:17:21 6 called. You have the right to present your own evidence,  
12:17:24 7 call your own witnesses if you wish. You may testify under  
12:17:29 8 oath if you wish, but you cannot be required to testify  
12:17:33 9 because under the Constitution you have a right to remain  
12:17:35 10 silent.

12:17:37 11 You may consult with your attorney at any time during  
12:17:39 12 the course of today's hearing, so if you see something that  
12:17:43 13 you don't understand or if you have a question for your  
12:17:44 14 lawyer, please raise your hand. I will see that and we will  
12:17:50 15 stop, and we will be able to put you and Mr. Bradley into a  
12:17:53 16 private break-out room so that he could answer any questions  
12:17:55 17 you might have.

12:17:56 18 Do you understand that?

12:17:58 19 THE DEFENDANT: Yes, Your Honor.

12:17:59 20 THE COURT: All right. Now, the evidence and  
12:18:03 21 examinations to be conducted today will be limited to the  
12:18:06 22 issue of probable cause for detention. The Court will not  
12:18:11 23 be considering any motions to suppress evidence today, nor  
12:18:14 24 will the Court be considering any contention that evidence  
12:18:16 25 has been unlawfully obtained. If those issues exist, they

12:18:21 1 may be addressed at a later date and are preserved for that  
12:18:25 2 purpose.

12:18:26 3 In the order of presentation, the Government will go  
12:18:29 4 first, followed by the defense with any defense evidence,  
12:18:33 5 and then we will hear arguments from counsel.

12:18:54 6 Now, from my examination of the charge in this case  
12:19:00 7 and the requirements of the Bail Reform Act, this is not a  
12:19:03 8 case in which there is a presumption under the law that  
12:19:06 9 Mr. Buchanan should be detained. Instead, there is a  
12:19:12 10 presumption under the law that he should be granted bond.

12:19:15 11 Do both the Government and the offense agree with the  
12:19:19 12 Court's assessment?

12:19:22 13 MR. ZARZYCKI: Yes, Your Honor.

12:19:22 14 MR. BRADLEY: Yes, Your Honor.

12:19:30 15 THE COURT: All right. Let me briefly  
12:19:31 16 describe the issues that the Court will have to decide  
12:19:33 17 before we get to the evidence.

12:19:34 18 On the issue of probable cause, as I mentioned, the  
12:19:36 19 Court will simply decide whether there's probable cause to  
12:19:38 20 believe that an offense has been committed and that the  
12:19:43 21 defendant is the person responsible for that offense.

12:19:49 22 Somebody out there in telephone connection land is not  
12:19:52 23 muted. I'm going to ask everyone one more time to mute  
12:19:58 24 their phones. I keep getting feedback from some of these  
12:20:01 25 telephones that we may have to force those phones to be

12:20:04 1 disconnected. And I'm not referring to Hillary Kump, whose  
12:20:11 2 name I see on my screen but whose phone is listed as muted.

12:20:15 3 On the issue of detention, the question that the Court  
12:20:21 4 must examine is whether there are conditions of bond that  
12:20:24 5 could be put in place that would reasonably assure the  
12:20:26 6 safety of the community and that would reasonably assure the  
12:20:28 7 appearance of the defendant at future proceedings.

12:20:31 8 So with those things having been said by way of  
12:20:34 9 background, let me ask Mr. Zarzycki at this time, how do you  
12:20:39 10 wish to proceed on behalf of the Government?

12:20:42 11 MR. ZARZYCKI: Your Honor, the Government  
12:20:45 12 would like to proceed, if it's okay with the Court, with  
12:20:49 13 both the preliminary hearing and the detention hearing  
12:20:54 14 simultaneously and offer evidence as to both at the same  
12:20:56 15 time.

12:20:56 16 THE COURT: That is actually my preference. I  
12:20:58 17 normally say that in advance. But please, Counsel, we're  
12:21:02 18 going to receive all the evidence on both probable cause and  
12:21:06 19 detention at the same time.

12:21:09 20 And I should indicate for the record that both sides  
12:21:12 21 have the right to proceed in whole or in part by way of a  
12:21:14 22 proffer, a description of their evidence, rather than  
12:21:18 23 actually calling witnesses. That's permitted because under  
12:21:21 24 the rules of court and the Rules of Evidence, the Rules of  
12:21:27 25 Evidence preventing receipt of hearsay evidence do not apply

12:21:31 1 in a hearing like that.

12:21:32 2 So go ahead, Mr. Zarzycki, if you wish to proceed by  
12:21:35 3 calling witnesses or by proffering or both.

12:21:38 4 MR. ZARZYCKI: The Government will proceed by  
12:21:40 5 both.

12:21:43 6 I would proffer previously provided Exhibits 1 through  
12:21:46 7 16 as well as the testimony of Special Agent William Hasty.

12:21:55 8 With respect to the exhibits to proffer, Exhibits 1  
12:21:59 9 through 8 are offered primarily for the preliminary hearing  
12:22:03 10 to show probable cause that the offense occurred. They're  
12:22:08 11 offered as evidence of that for the preliminary hearing.

12:22:13 12 All exhibits 1 through 15 -- or 1 through 16, rather,  
12:22:17 13 are offered for purposes of the detention hearing.

12:22:21 14 THE COURT: So the Government is offering  
12:22:23 15 Exhibits 1 through 16, Mr. Bradley. Is there any objection  
12:22:26 16 to the Court's receipt of those exhibits?

12:22:29 17 MR. BRADLEY: No, Your Honor.

12:22:29 18 THE COURT: All right. They will be received.

12:22:36 19 Mr. Zarzycki, are you proffering the report of  
12:22:38 20 Pretrial Services as well?

12:22:39 21 MR. ZARZYCKI: Yes, Your Honor.

12:22:45 22 THE COURT: Is there any objection to the  
12:22:46 23 Court's receipt of the report of Pretrial Services,  
12:22:49 24 Mr. Bradley?

12:22:49 25 MR. BRADLEY: No.

12:22:50 1 THE COURT: All right. That will be received  
12:22:51 2 without objection as well.

12:22:51 3 What other proffers do you have, Mr. Zarzycki, prior  
12:22:55 4 to calling your witnesses or witness?

12:22:59 5 MR. ZARZYCKI: Your Honor, I would proffer the  
12:23:01 6 affidavit in support of the complaint, or that's I believe  
12:23:06 7 already part of the record.

12:23:09 8 THE COURT: Very well.

12:23:11 9 MR. ZARZYCKI: And that would be it.

12:23:13 10 THE COURT: All right. The Court has the  
12:23:15 11 complaint and the affidavit attached as part of the record.

12:23:19 12 You may call your witness, Mr. Zarzycki.

12:23:22 13 MR. ZARZYCKI: The Government calls Special  
12:23:25 14 Agent William Hasty.

12:23:29 15 THE COURT: All right, Mr. Hasty, you will now  
12:23:31 16 be placed under oath. If you'd please raise your right hand  
12:23:33 17 to be sworn.

12:23:35 18 (Witness sworn.)

12:23:45 19 THE COURT: Go ahead, Mr. Zarzycki.

12:23:46 20 MR. ZARZYCKI: Thank you.

12:23:46 21 WILLIAM L. HASTY

22 - - - - -

12:23:47 23 DIRECT EXAMINATION

12:23:47 24 BY MR. ZARZYCKI:

12:23:48 25 Q Special Agent Hasty, could you state your name and

12:23:51 1 spell it, please.

12:23:52 2 **A** William Lee Hasty, H-A-S-T-Y.

12:23:56 3 **Q** And where are you employed?

12:23:58 4 **A** The Department of Justice, Federal Bureau of  
12:24:02 5 Investigation.

12:24:02 6 **Q** And how long have you been employed?

12:24:03 7 **A** Nine years, nine months.

12:24:07 8 **Q** And how long have you been in Cleveland and what unit  
12:24:12 9 are you assigned to?

12:24:13 10 **A** I've been in Cleveland since December 20, 2017. I'm  
12:24:19 11 assigned to squad 11, which is the Violent Crime Task Force.

12:24:24 12 **Q** Okay. And in the Violent Crime Task Force, what are  
12:24:29 13 some offenses that you're investigating?

12:24:32 14 **A** We investigate bank robberies, child pornography,  
12:24:38 15 fugitives, weapons violations, Hobbs Act violations, and so  
12:24:42 16 forth.

12:24:42 17 **Q** Okay. In your position as a special agent with the  
12:24:46 18 FBI, did you have the opportunity to investigate incidents  
12:24:49 19 that occurred on May 30, 2020, in downtown Cleveland?

12:24:55 20 **A** Yes, I did.

12:24:56 21 **Q** And as part of your investigation, did you look into  
12:25:02 22 damage done or things that were stolen from the Colossal  
12:25:10 23 Cupcakes located in downtown Cleveland?

12:25:12 24 **A** Yes, I did.

12:25:12 25 **Q** Where specifically is that located?

12:25:14 1     **A**     It's located on Euclid Avenue, west of Public  
12:25:18 2                 Square -- east of Public Square, rather.

12:25:22 3     **Q**     Okay. And is that located in the Northern District of  
12:25:24 4                 Ohio?

12:25:24 5     **A**     Yes, sir, it is.

12:25:30 6     **Q**     And in your investigation can you explain to the Court  
12:25:32 7                 what specifically it was that you were looking into, that  
12:25:36 8                 you were investigating?

12:25:38 9     **A**     Certainly.

12:25:39 10                 There were a series of break-ins at several businesses  
12:25:49 11                 along Euclid Avenue, and we were working with local partners  
12:25:58 12                 to identify and prosecute those responsible for the violent  
12:26:07 13                 acts.

12:26:07 14                 Now, the Federal Government's responsibility primarily  
12:26:11 15                 extends to those establishments with people inside, so my  
12:26:15 16                 focus was on the locations that had victims inside while  
12:26:22 17                 they were broken into and looted.

12:26:27 18     **Q**     And did you investigate or interview some witnesses or  
12:26:31 19                 victims in that business, Colossal Cupcakes?

12:26:36 20     **A**     Yes, sir, I did.

12:26:37 21     **Q**     And who did you interview?

12:26:40 22     **A**     I interviewed the owner, Kelly Kandah. I interviewed  
12:26:44 23                 her four employees. There was Michelle, Caleb. So I  
12:26:55 24                 want -- there was Jack, and then the final was a young girl  
12:27:03 25                 named Anastacia. Yes. So I interviewed five total victims

12:27:08 1 at the Colossal Cupcakes establishment.

12:27:11 2 Q Okay. And were there in fact five people present  
12:27:15 3 during an incident that occurred on May 30?

12:27:17 4 A Yes.

12:27:18 5 Q And after your interview with those individuals, what  
12:27:23 6 did you learn about what had happened?

12:27:24 7 A I learned that the four employees had been working  
12:27:31 8 their shift there when Kelly, the owner, who resides nearby,  
12:27:41 9 she was informed that she might want to come back to the  
12:27:43 10 store because things are getting, you know, potentially  
12:27:48 11 dangerous.

12:27:49 12 Kelly arrived back to the store. They unlocked the  
12:27:53 13 door, let her in. And she immediately began kind of telling  
12:27:58 14 the employees, hey, things are going to get bad, they're  
12:28:02 15 going to break the windows and so on, but it's going to be  
12:28:05 16 okay.

12:28:07 17 And right at that point she describes what she heard  
12:28:12 18 as the sound of a gunshot or something similar, and she  
12:28:16 19 looked to her right and saw one of the two plate glass  
12:28:23 20 windows there with a small hole in it, and then she saw the  
12:28:26 21 hole expand as the window shattered.

12:28:30 22 And at that point she moved back to where her cash  
12:28:35 23 register is, about halfway back in the establishment, and  
12:28:39 24 somebody, at least one person she says had come through the  
12:28:48 25 windowpane and had jumped up on the counter in a really

12:28:53 1 aggressive manner right in front of her.

12:28:55 2 And at about that time she felt and heard a cinder  
12:29:00 3 block go right by her head. And at that point she felt as  
12:29:04 4 if she was in mortal danger, and that's when she really felt  
12:29:09 5 that things had changed and it was a very dangerous  
12:29:15 6 situation.

12:29:15 7 So she retreated back in through the kitchen into the  
12:29:19 8 lone bathroom at the back of the establishment and locked  
12:29:25 9 herself in with the other four employees while at least two  
12:29:28 10 of them had made calls to 911.

12:29:38 11 **Q** Okay. And so they were able to lock themselves in the  
12:29:40 12 bathroom. How long did -- and was anyone able to report how  
12:29:44 13 long that they had had to stay in the bathroom before help  
12:29:47 14 arrived?

12:29:47 15 **A** It was reported to be about 10 minutes.

12:29:51 16 **Q** Okay. And how were they let out of the bathroom? Or  
12:29:57 17 how did they -- what made it appear safe enough for them to  
12:30:03 18 come out of the bathroom?

12:30:04 19 **A** There was a Cleveland Police tactical element that --  
12:30:08 20 because the 911 reported that they were locked in the  
12:30:11 21 bathroom, so the Cleveland Police arrived on scene while  
12:30:15 22 the, you know, looting and such was still going on. They  
12:30:19 23 were able to essentially form a pocket of safety out of  
12:30:22 24 which they could escape.

12:30:24 25 So they arrived at the establishment, went to the

12:30:27 1 back, announced their office and intent, what they want.  
12:30:33 2 And the five victims inside initially didn't believe it was  
12:30:36 3 the police and wanted them -- had armed themselves with a  
12:30:42 4 spray bottle of bleach or some kind of bathroom cleaner.  
12:30:47 5 And once they determined it was the police, then they were  
12:30:51 6 given a moment to gather a few things, and then they escaped  
12:30:58 7 on Euclid Avenue.

12:31:00 8 **Q** Did anyone notice -- any of the five employees or the  
12:31:07 9 owner, did anyone notice any items missing upon them walking  
12:31:10 10 out of the bathroom?

12:31:11 11 **A** One of the victims identified the five point of sale  
12:31:17 12 machines -- they're tablets. I think two were iPads and the  
12:31:23 13 others were Android devices of some kind. And they use  
12:31:27 14 those for point of sale, for Grubhub and all those types of  
12:31:31 15 businesses where people can order online.

12:31:35 16 And it was of interest because this victim uses the  
12:31:38 17 same charging area for his cell phone, and he noticed that  
12:31:45 18 in that area the five tablets were gone, but his cell phone  
12:31:48 19 had been kind of hidden under something and that was still  
12:31:50 20 there. So he got his cell phone and left. But he noted  
12:31:56 21 that the five point of sale machines had been taken at that  
12:31:59 22 point.

12:31:59 23 **Q** Okay. And the rest of the business, were they able to  
12:32:06 24 describe the state of the business or what had been done to  
12:32:08 25 it?

12:32:09 1       **A**       They said a lot of glass had been broken. The front  
12:32:13 2       two panels at least, the front two panes had been broken out  
12:32:17 3       of the plate glass window. The display case I believe may  
12:32:21 4       have been damaged. And, you know, other than that, there  
12:32:23 5       was nothing regarding specifics at that time of the damage,  
12:32:28 6       but it was described as having been ransacked, by many of  
12:32:33 7       the victims.

12:32:38 8       **Q**       Were they able to see or hear what was going on at the  
12:32:42 9       store while they were in the bathroom?

12:32:43 10      **A**       Right. So they -- because of where they were, there  
12:32:46 11       were no windows in the bathroom. They couldn't see  
12:32:49 12       anything. But most of the victims described it as just a  
12:32:52 13       torrent of sound of a crowd outside, things crashing. So it  
12:32:58 14       was described as a very near sound, so it could have been  
12:33:01 15       just on the other side of the door.

12:33:04 16      **Q**       Okay. All right. And after you obtained this  
12:33:07 17       information, did you -- were you able, through assistance of  
12:33:15 18       photographers and people who were present during what was  
12:33:18 19       happening downtown, able to obtain additional photographic  
12:33:26 20       evidence and things of that nature?

12:33:27 21      **A**       Yes. We reached out to the public and reached out to  
12:33:30 22       those who may have been down there for their assistance, and  
12:33:33 23       some members of the public provided photos and videos taken  
12:33:39 24       from the scene. We used that as well as, you know, a  
12:33:47 25       database of cameras downtown, the Hanna Building and so

12:33:53 1 forth, to try to capture a timeline of what happened at what  
12:33:57 2 location.

12:33:59 3 Q Okay.

12:33:59 4 A And that information coupled with approximately a  
12:34:02 5 dozen call-ins to either the Crime Stoppers line or to our  
12:34:11 6 office led to the preliminary identification of Tandre  
12:34:15 7 Buchanan, Jr., as our suspect, one of the three suspects at  
12:34:19 8 least.

12:34:19 9 Q Okay. And before we get to that, did anyone in the --  
12:34:22 10 either the owner or one of the four victim employees  
12:34:27 11 describe an individual coming to the store as wearing any  
12:34:33 12 bright orange colors?

12:34:34 13 A Yes. I believe at least two of the victims described  
12:34:40 14 seeing a guy in orange. I know one of them was certain that  
12:34:44 15 person had been inside the store with -- it was just like --  
12:34:50 16 he described it as kind of orange everything, he said. You  
12:34:55 17 know, orange head covering of some kind and an orange  
12:34:59 18 sweatshirt. And so that would have put the person in orange  
12:35:05 19 inside the business.

12:35:07 20 Q Okay. And you had said that you had obtained some  
12:35:14 21 video outside the store. Did that show -- or, I'm sorry,  
12:35:21 22 video or photographs. Did those show a person in orange in  
12:35:26 23 any of those?

12:35:26 24 A Yes. In several of the photos and one of the videos  
12:35:32 25 at least showed -- the video had showed a person in orange

12:35:36 1 exiting through the -- first the further west windowpane  
12:35:42 2 that had been broken out.

12:35:44 3 **Q** Okay. Did the owner of Colossal Cupcakes also take  
12:35:52 4 some short video of her own?

12:35:53 5 **A** Yes, she did. That -- it must have been a live  
12:35:57 6 broadcast or something that was also captured. We viewed  
12:36:01 7 that. And in a still image from the video there can be seen  
12:36:09 8 a person in orange at what appears to be inside the store.

12:36:15 9 **Q** And what did the entire video depict, to your  
12:36:20 10 recollection?

12:36:20 11 **A** It was very chaotic with the movement of the camera  
12:36:25 12 and the sounds of everything going on, obviously the fear in  
12:36:29 13 the voice of the victim. But it -- I believe it shows their  
12:36:36 14 moving back, retreating back from the storefront back  
12:36:40 15 towards the diner door where the kitchen is, if memory  
12:36:43 16 serves.

12:36:48 17 **Q** Now, have you had an opportunity to review Exhibits 1  
12:36:52 18 through 16 prior to your testimony here today?

12:36:54 19 **A** Yes, I have.

12:36:55 20 **Q** In Exhibit 1, what does that photograph depict, or  
12:37:00 21 still photograph?

12:37:01 22 **A** Photograph 1 appears to show a gentleman with an  
12:37:09 23 orange sweatshirt, an orange do-rag, and black pants of some  
12:37:14 24 kind in the vicinity of the window that's broken out. With  
12:37:20 25 the depth and everything, you can't make a certain

12:37:24 1 determination if that person's inside or outside, but it  
12:37:28 2 looks to be inside.

12:37:31 3 Q And in the video, does the actual video, the moving  
12:37:36 4 video, does it appear to show an individual moving inside  
12:37:39 5 the store?

12:37:40 6 A Yes. The video is much more certain, and you can see  
12:37:46 7 the person exiting through the broken windowpane area.

12:37:52 8 Q Okay. Now, the -- go ahead. I'm sorry.

12:37:59 9 A I was saying, it was exiting from the inside of the  
12:38:01 10 store to the outside where the sidewalk is.

12:38:03 11 Q Okay. And was there other photographic or video  
12:38:11 12 evidence that did show someone in orange coming out of the  
12:38:13 13 store as well?

12:38:13 14 A Yes. I saw another video that I believe showed the  
12:38:19 15 same thing.

12:38:21 16 Q Okay. Now, showing you first -- we'll go to Exhibit  
12:38:31 17 Number 2. What does that photo show?

12:38:38 18 A Exhibit 2 shows a gentleman standing in the windowpane  
12:38:46 19 area that has been broken out. The gentleman's wearing an  
12:38:49 20 orange do-rag and what appears to be orange sweatshirt. A  
12:38:55 21 lot of that person is obscured by other members of the  
12:38:59 22 public walking along the sidewalk.

12:39:08 23 Q And in this exhibit can you describe exactly where it  
12:39:10 24 is that you're talking about?

12:39:11 25 A Certainly.

12:39:15 1 THE COURT: Let me interject. In the  
12:39:18 2 interests of making sure we use the Court's time as  
12:39:22 3 efficiently as possible, I've always considered that  
12:39:25 4 photographic evidence is fairly self-explanatory. There's  
12:39:28 5 an old saying that indicates that a picture is worth a  
12:39:32 6 thousand words. What I'm trying to do is make sure that we  
12:39:35 7 don't get one thousand words for each of the pictures that  
12:39:39 8 you seek to address the Court's attention to. You certainly  
12:39:41 9 are entitled to make a description, but I can see reasonably  
12:39:46 10 well what the photographs attempt to show. So if you could  
12:39:49 11 just have a more laser-like focus on exactly why you think  
12:39:56 12 each photograph is important, that would be greatly  
12:39:58 13 appreciated.

12:39:58 14 MR. ZARZYCKI: Absolutely, Your Honor.

12:40:01 15 Q Agent Hasty, what's the significance of Exhibit Number  
12:40:04 16 2?

12:40:04 17 A Exhibit 2 shows the person within the broken  
12:40:09 18 windowpane area, certainly not on the exterior of the  
12:40:14 19 business.

12:40:16 20 Q Okay. Now, what is the time of day that this is all  
12:40:19 21 happening?

12:40:19 22 A It's approximately 6:30, give or take a few minutes.

12:40:24 23 Q Were you able to obtain metadata from the victims'  
12:40:30 24 cell phone video footage that you saw, or at least the still  
12:40:34 25 frame from Exhibit Number 1, what time of day that was

12:40:37 1 taken?

12:40:38 2 **A** Yeah, I believe that was taken at 6:38 p.m.

12:40:41 3 **Q** Okay. And this video or Exhibit Number 2, that's  
12:40:44 4 taken from a different video; is that right?

12:40:46 5 **A** Correct. This is a still image from a video also  
12:40:50 6 taken at 6:38 p.m.

12:40:56 7 **Q** Okay. So these are approximately the same time that  
12:40:59 8 this is occurring?

12:41:00 9 **A** Yes, sir.

12:41:02 10 **Q** Okay. Now, Exhibit Number 3, can you take a look at  
12:41:06 11 that and explain the significance of that photo?

12:41:07 12 **A** Certainly. The significance of this photo is I'm  
12:41:10 13 looking up and down the sidewalk here, and I see some broken  
12:41:16 14 glass from the window, and I see the person in orange, you  
12:41:22 15 know, continuing to exit the windowpane area.

12:41:27 16 **Q** Okay. Now, Exhibit 4, what is the significance of  
12:41:33 17 that photograph?

12:41:33 18 **A** Exhibit 4 shows a person wearing an orange sweatshirt,  
12:41:40 19 orange do-rag, black athletic style pants, and orange Nike  
12:41:48 20 sneakers with a turquoise stool that matches the turquoise  
12:41:51 21 stool from inside the business breaking out the window, the  
12:41:55 22 other window that person had previously exited next to, if  
12:42:01 23 that makes sense.

12:42:01 24 **Q** Did you talk to the owner of the business and identify  
12:42:03 25 if that was a stool that is used inside of her store?

12:42:08 1     **A**     Yes, that is a stool that matches those used in her  
12:42:12 2     store.

12:42:13 3     **Q**     Okay. And when you were watching the video, prior to  
12:42:17 4     the man in orange climbing out of the window, were you able  
12:42:21 5     to at least see a somewhat unobstructed view or somewhat  
12:42:26 6     obstructed by individuals walking up and down of the  
12:42:28 7     sidewalk prior to him exiting the store?

12:42:31 8     **A**     Correct.

12:42:33 9     **Q**     And did you see at that time, before the guy -- the  
12:42:42 10     person in orange got out of that window, did you see a blue  
12:42:46 11     stool on the sidewalk at any time during that video?

12:42:48 12     **A**     In none of the photos or videos that I saw was I able  
12:42:51 13     to see a stool like this along the sidewalk, along the  
12:42:59 14     exterior of the business.

12:43:08 15     **Q**     All right. Now, Exhibit Number 5, can you explain the  
12:43:13 16     significance of that exhibit?

12:43:15 17     **A**     Certainly.

12:43:17 18              Exhibit 5, this shows the gentleman in orange  
12:43:25 19     continuing to hit the window with the stool. It also shows  
12:43:28 20     who we believe to be one of the codefendants, the gentleman  
12:43:33 21     in the black and white sneakers, black pants, and  
12:43:38 22     multicolored sweatshirt, the turquoise shoulder area and  
12:43:44 23     hood.

12:43:49 24     **Q**     Okay. Now, Exhibit Number 6, what is the significance  
12:43:51 25     of this photograph?

12:43:52 1     **A**     This photograph shows the gentleman, the codefendant,  
12:43:56 2     inside the store. We can see the shoulder and hood area of  
12:44:01 3     that sweatshirt inside the store while the gentleman in  
12:44:06 4     orange has the stool in an aggressive manner still.

12:44:10 5     **Q**     Okay. Are these photographs taken in chronological  
12:44:13 6     order or are these still pictures from the video taken in  
12:44:17 7     chronological order?

12:44:18 8     **A**     That is correct.

12:44:18 9     **Q**     Now, Exhibit 7, what's the significance of that  
12:44:26 10     photograph?

12:44:27 11     **A**     Exhibit 7 shows the gentleman in the multicolored  
12:44:32 12     sweatshirt again very far inside the business, almost where  
12:44:38 13     the cash register is. And it also shows the gentleman clad  
12:44:44 14     all in black approaching one of the display cases.

12:44:47 15     **Q**     In watching the video, did the person in the  
12:44:50 16     multicolored sweatshirt in the blue and black, did he go  
12:44:54 17     behind the counter at any time?

12:44:56 18     **A**     Yes.

12:44:59 19     **Q**     And did both of these individuals go into this  
12:45:02 20     business after the person in orange exited that window?

12:45:06 21     **A**     Correct.

12:45:07 22     **Q**     Okay. Now, Exhibit 8, can you explain the  
12:45:15 23     significance of this photograph?

12:45:16 24     **A**     Sure. Exhibit 8 shows the gentleman in orange  
12:45:20 25     continuing to attack the window. It shows a woman in the

12:45:27 1 foreground holding a bag of popcorn. And it also shows a  
12:45:33 2 gentleman all in black with red shoes as he's leaping  
12:45:36 3 through the air out of the broken windowpane area holding  
12:45:42 4 what appears to be a pop bottle that matches those sold by  
12:45:46 5 the store.

12:45:46 6 **Q** Okay. And while that person is exiting with that  
12:45:49 7 bottle from the store, is the person in orange still engaged  
12:45:54 8 in smashing the window at that time?

12:45:56 9 **A** That is correct.

12:45:58 10 **Q** Okay. Now, this video where these stills are taken,  
12:46:03 11 do they show the activities that's going on on Euclid Avenue  
12:46:06 12 both before and during this incident?

12:46:10 13 **A** That's correct.

12:46:14 14 **Q** Okay. Does this video still -- does it show going  
12:46:19 15 down one direction east as well as a direction west? Does  
12:46:24 16 it capture the entire I guess scene, what's happening on the  
12:46:28 17 street?

12:46:28 18 **A** Right. It doesn't move from just one position to the  
12:46:33 19 other. It's trending towards the east, but they at times  
12:46:36 20 move back to the west to see something at the arcade or  
12:46:39 21 something if there's activity there.

12:46:41 22 **Q** Okay. And what's going on on that street at that time  
12:46:45 23 from what you're able to see from the video?

12:46:46 24 **A** Near constant breaking up of glass and looting of  
12:46:49 25 businesses.

12:46:52 1     **Q**     Okay. And by looting of businesses, you mean people  
12:46:54 2     going through glass openings and stealing things from the  
12:46:57 3     establishments along Euclid Avenue?

12:47:03 4     **A**     Yes.

12:47:04 5     **Q**     Is that all going on around the same time that this  
12:47:06 6     incident is occurring with the Colossal Cupcakes?

12:47:27 7     **A**     Yes, it is.

12:47:27 8     **Q**     Okay. And were you able to take stills from this  
12:47:35 9     video in order to put those out to the public to get someone  
12:47:40 10     to identify the person in orange?

12:47:42 11     **A**     That is correct.

12:47:43 12     **Q**     Okay. And when you -- you said at some point in your  
12:47:50 13     testimony you received a tip or someone identified a  
12:47:54 14     Mr. Tandre Buchanan. Is that correct?

12:47:58 15     **A**     Yes, sir.

12:47:58 16     **Q**     Okay. And once you had that tip, were you able to  
12:48:00 17     obtain photographs or social media pictures that assisted  
12:48:07 18     you in confirming that it was Mr. Buchanan in the orange on  
12:48:11 19     that day?

12:48:11 20     **A**     Correct. We looked at both the person's Instagram  
12:48:18 21     profile, and one of the photos in the Instagram profile had  
12:48:22 22     the gentleman wearing an orange sweatshirt that appeared to  
12:48:25 23     match that one seen in previous photos, as well as his  
12:48:28 24     driver's license printout which the historical photos  
12:48:33 25     clearly matched those of photos admitted as exhibits.

12:48:40 1     **Q**     Okay. So there was an Instagram photo where he was  
12:48:44 2     wearing that same sweatshirt?

12:48:45 3     **A**     Yes, sir.

12:48:45 4     **Q**     Okay. And once you saw the Instagram photos and you  
12:48:53 5     saw the driver's license photo, what was your next move from  
12:48:56 6     there?

12:48:56 7     **A**     The next move was to determine the best way to  
12:49:04 8     continue to gather evidence and gather information on the  
12:49:08 9     person's whereabouts. We defined the person -- the location  
12:49:14 10     where he worked as well as his residence and did an  
12:49:19 11     affidavit for a search warrant and arrest warrant for  
12:49:23 12     Mr. Buchanan.

12:49:25 13     **Q**     Okay. And while you're doing this investigation, did  
12:49:27 14     this image of Tandre Buchanan in that same orange  
12:49:33 15     sweatshirt, did it stay posted on Instagram?

12:49:37 16     **A**     No. Concurrent with us looking at it, the profile was  
12:49:42 17     turned private. But we had already scraped the entire  
12:49:47 18     profile.

12:49:47 19     **Q**     Okay. While you were looking at it, it became  
12:49:52 20     private?

12:49:52 21     **A**     Correct.

12:49:53 22     **Q**     How soon after this incident occurred were you looking  
12:49:56 23     at it?

12:49:56 24     **A**     15 minutes.

12:49:59 25     **Q**     And had the news put out who the person was to the

12:50:07 1 public, the person in orange?

12:50:11 2 **A** Right, exactly. 15 minutes after the press release  
12:50:15 3 was conducted, we received our first call.

12:50:19 4 **Q** Okay. And once the press released that and you got  
12:50:24 5 your first call, how soon after was his Instagram changed to  
12:50:29 6 private?

12:50:30 7 **A** I'd have to check the timeline, but I believe it was  
12:50:33 8 within the hour, probably 15, 20 minutes.

12:50:37 9 **Q** Okay. Now, did you make an arrest and interview  
12:50:42 10 Mr. Buchanan?

12:50:43 11 **A** Correct, we did.

12:50:44 12 **Q** And what was the result of that interview?

12:50:47 13 **A** We -- I was not personally involved in the arrest, but  
12:50:56 14 my colleagues delivered Mr. Buchanan to our office. And  
12:51:01 15 myself and my colleague, TFO Lynn Bilko, sat Mr. Buchanan  
12:51:07 16 down, and we interviewed him for about two and a half hours.

12:51:16 17 We completed an FD-395 Advice of Rights form.

12:51:23 18 Mr. Buchanan indicated he wished to continue the  
12:51:28 19 conversation without an attorney present. And we went over  
12:51:30 20 the activities of the 30th, when he arrived down there, how  
12:51:37 21 things are gotten violent between the police and the  
12:51:41 22 protesters and how it turned into a violent situation,  
12:51:43 23 moving towards Public Square and down Euclid Avenue.

12:51:49 24 **Q** Did Mr. Buchanan admit during his interview that it  
12:51:56 25 was him wearing the orange sweatshirt and smashing the

12:51:59 1 window?

12:51:59 2 **A** He did.

12:52:00 3 **Q** Did at any time he admit to going into the business?

12:52:03 4 **A** He did not admit at the time, but when confronted with  
12:52:07 5 the fact that we had video of him exiting, he didn't  
12:52:10 6 challenge it.

12:52:12 7 **Q** Okay. Now, the -- did you have another photograph to  
12:52:17 8 show Mr. Buchanan, a photograph of him holding the head of a  
12:52:21 9 deer in his hand?

12:52:23 10 **A** Correct. We had an image taken I believe right at 7  
12:52:29 11 p.m. showing Mr. Buchanan holding a deer trophy, you know,  
12:52:37 12 above his shoulders.

12:52:40 13 **Q** And what time of day was that? What was the location  
12:52:43 14 and what did Mr. Buchanan say about that?

12:52:45 15 **A** He said he saw it right there, picked it up, held it  
12:52:52 16 for a few photos, and then put it right back down again.

12:52:55 17 The photo was taken right in the Cleveland State  
12:52:58 18 University campus area, I believe along Euclid Avenue, right  
12:53:03 19 at 7 p.m.

12:53:05 20 **Q** Right at 7 p.m.? Okay.

12:53:06 21 And how far away -- where was it taken from?

12:53:10 22 **A** That -- the photo was taken from a car across the  
12:53:16 23 street from where Mr. Buchanan was, and that's several  
12:53:21 24 blocks from the vicinity of Playhouse Square and the Euclid  
12:53:31 25 corridor that was previously discussed.

12:53:33 1     **Q**     Where was the actual trophy taken from?

12:53:35 2     **A**     Oh, the -- I later received a phone call -- initially  
12:53:39 3         we didn't know, but last Friday I received a phone call from  
12:53:43 4         Gordon Geiger, owner of Geiger's Sporting Goods store, and  
12:53:48 5         he stated that that deer trophy had been in their store for  
12:53:54 6         82 years.

12:53:57 7             We received some video from them, and one of the five  
12:54:00 8         or six cameras they have in their store has the deer antlers  
12:54:06 9         on each side of the camera, so you can see it clearly what  
12:54:09 10        it is. And then a gentleman breaks a window and they come  
12:54:14 11        in, and someone reaches up and grabs the deer head and pulls  
12:54:18 12        it away. And from there it's taken outside and I believe  
12:54:27 13        taken at that point by Mr. Buchanan.

12:54:31 14     **Q**     Okay. Now, when you said Mr. Buchanan was confronted  
12:54:37 15        by this, he said he found it on the ground, picked it up,  
12:54:41 16        took a picture with it, and put it back down in the area  
12:54:44 17        around Columbus State?

12:54:46 18     **A**     Yes.

12:54:47 19     **Q**     And then where did he go from there?

12:54:48 20     **A**     He says he went home. It wasn't his girlfriend -- he  
12:54:54 21         was with a girl, but the girl wasn't his girlfriend, so they  
12:54:57 22         took either his car or her car back to where he lived on  
12:55:02 23         165th.

12:55:06 24     **Q**     And was he asked whether he had gone back downtown at  
12:55:12 25         any time or anywhere near the City Tap that's located

12:55:17 1 downtown?

12:55:17 2 **A** So the following morning we were discussing some  
12:55:22 3 curiosities because we had some surveillance footage from  
12:55:25 4 City Tap showing a guy in a do-rag and orange sweatshirt on  
12:55:30 5 camera at I think it was 9:30 or so, thereabouts, give or  
12:55:36 6 take a few minutes. And that person was outside of a  
12:55:40 7 vehicle removing a car seat and a stool or something. And  
12:55:47 8 the plate was visible on the surveillance footage, and the  
12:55:55 9 plate on the vehicle was returned -- we ran the  
12:55:57 10 registration, and the vehicle registration returned to  
12:55:59 11 Kenneth Dunnican, who is Tandre Buchanan's brother.

12:56:04 12 **Q** And do they live at the same location?

12:56:05 13 **A** I don't believe so.

12:56:11 14 **Q** Okay. All right. And was he asked about that?

12:56:16 15 **A** He was. He asked, you know, why that would be, why  
12:56:21 16 would we would -- why we would see this person in orange  
12:56:25 17 there or why his brother's car would be there, and he had no  
12:56:31 18 answer for that.

12:56:32 19 **Q** Okay. Now, you said that you -- did you also obtain a  
12:56:38 20 search warrant in addition to the arrest warrant for  
12:56:41 21 Mr. Buchanan?

12:56:42 22 **A** Correct.

12:56:42 23 **Q** Was the search conducted?

12:56:44 24 **A** The search was conducted, yes, on -- it was  
12:56:46 25 essentially concurrent with the arrest on the evening of the

12:56:49 1 11th.

12:56:50 2 Q Okay. And did you locate the deer head trophy?

12:56:55 3 A We did not.

12:56:56 4 Q Did you locate the orange sweatshirt or the orange  
12:56:58 5 do-rag?

12:56:58 6 A No. No, during the interview Mr. Buchanan told us  
12:57:01 7 that he had gotten rid of the orange sweatshirt that night  
12:57:05 8 because it had received some (audio interference) and a hole  
12:57:11 9 in it from where he was shot with the rubber bullets from  
12:57:15 10 police, and he saw fit to get rid of it that way.

12:57:19 11 The following morning he mentioned that he had gotten  
12:57:24 12 rid of all of it after his father had told him to do so.

12:57:33 13 Q All right. Now, when you -- in addition to some of  
12:57:37 14 the still photos we've already seen and identified, did you  
12:57:40 15 get other videos from throughout the city of Cleveland and  
12:57:42 16 combine that with the defendant's statements sort of tracing  
12:57:47 17 the path throughout the area of downtown Cleveland both  
12:57:50 18 before Colossal Cupcakes and after?

12:57:53 19 A Yes, we did.

12:57:55 20 Q And what was the path?

12:57:56 21 A We had a shot along -- in the vicinity of Playhouse  
12:58:06 22 Square that shows Mr. Buchanan carrying the deer trophy  
12:58:10 23 across the street, and he's accompanied by the same girl  
12:58:16 24 that he's seen in the other photos with. And it is curious  
12:58:25 25 because it contradicts what was stated previously where he

12:58:27 1 picked it up right there and took a photo with it and then  
12:58:30 2 discarded it.

12:58:32 3 You know, Mr. Buchanan was cooperative during the  
12:58:37 4 interview and signed a -- and he signed a consent to search  
12:58:45 5 the cell phone. He had an iPhone 8 that we did an extract  
12:58:50 6 on. I returned it to his father. But during the search of  
12:58:54 7 that phone, I came across a video showing Mr. Buchanan  
12:58:59 8 throwing a brick through the window or door - it's a glass  
12:59:05 9 door - of the Huntington Bank Building at Playhouse  
12:59:09 10 Square -- I mean Public Square.

12:59:10 11 Q That came from his cell phone?

12:59:12 12 A That came from his cell phone. I can't say with  
12:59:16 13 certainty that his cell phone captured it. It may have been  
12:59:19 14 taken by his cell phone or sent to his phone from someone  
12:59:22 15 else. I can't say at this time.

12:59:23 16 Q Okay. So looking at Exhibit Number 9, can you tell us  
12:59:28 17 what that is?

12:59:28 18 A Certainly.

12:59:31 19 Exhibit Number 9 is just a still from that video that  
12:59:36 20 shows the revolving door glass pane being broken out.

12:59:46 21 Q And Exhibit Number 10?

12:59:48 22 A Exhibit Number 10 is a still taken from the same video  
12:59:54 23 a second or two later that show him walking away from the  
12:59:58 24 door.

12:59:58 25 Q "Him" being Mr. Buchanan?

01:00:02 1 **A** Yes, sir.

01:00:02 2 **Q** Okay. And now, just chronologically, before what  
01:00:09 3 happened at Colossal Cupcakes?

01:00:11 4 **A** It is before.

01:00:12 5 **Q** Okay. Where did Mr. Buchanan start and where did he  
01:00:17 6 go?

01:00:17 7 **A** So he says he arrived at the Justice Center around  
01:00:24 8 2:30 or 3. He attended a funeral earlier in the day for a  
01:00:29 9 family member, and he arrived at the Justice Center at 2:30  
01:00:33 10 or 3 for the protest that he said initially was really  
01:00:36 11 great, everything was going really well. And then he  
01:00:40 12 asserted that the police launched rubber bullets and tear  
01:00:46 13 gas at the protesters, and that turned the otherwise  
01:00:50 14 peaceful protesters into, you know, more violent agitators.

01:00:53 15 And at that point they moved from the Justice Center  
01:00:59 16 to Public Square and then eastward towards Playhouse Square.

01:01:07 17 **Q** Okay. So now is the bank that you see in the exhibit,  
01:01:10 18 the revolving door. Exhibits 9 and 10, are those on the way  
01:01:13 19 to Public Square?

01:01:16 20 **A** Yes, sir. It's just east of the Soldiers' and  
01:01:20 21 Sailors' Monument, right at the intersection where it meets  
01:01:24 22 Euclid Avenue.

01:01:26 23 **Q** And did Mr. Buchanan say that -- any other store that  
01:01:32 24 he had gone into on his way towards Public Square or away  
01:01:40 25 from Public Square?

01:01:41 1 **A** Just one. He had mentioned that he had gone inside  
01:01:43 2 Heinen's. Heinen's had been broken into as well, and he  
01:01:48 3 stated he went in I believe to look around.

01:01:52 4 **Q** Okay. This is Exhibit Number 10. What does that  
01:01:56 5 show?

01:01:56 6 **A** Exhibit Number 10 is taken a second or two after the  
01:02:01 7 last one that shows him walking away from the door that had  
01:02:06 8 previously been broken out.

01:02:08 9 **Q** I'm sorry. Exhibit Number 11.

01:02:10 10 **A** Exhibit 11. Exhibit 11 shows Mr. Buchanan, who had --  
01:02:16 11 in other photos we've seen him in the middle of Euclid  
01:02:19 12 having removed the orange sweatshirt. He had an Army  
01:02:21 13 T-shirt on underneath. This shows him with the black  
01:02:25 14 T-shirt on just inside the broken window area of the  
01:02:29 15 Heinen's store.

01:02:30 16 **Q** Okay. And again, he did confirm that he was also in  
01:02:34 17 that store as well?

01:02:34 18 **A** Yes, he said he went inside, I think he said to look  
01:02:38 19 around.

01:02:39 20 **Q** Was Heinen's looted, too, or was anything stolen from  
01:02:43 21 Heinen's?

01:02:44 22 **A** Yes, yes.

01:02:45 23 **Q** Now, Exhibit Number 12, what is that -- the  
01:02:55 24 significance of that?

01:02:56 25 **A** Exhibit 12 --

01:02:57 1 THE COURT: We've already covered Exhibit 12.

01:03:00 2 Q All right. Can you describe for the Court when

01:03:12 3 talking with Mr. Buchanan about Colossal Cupcakes and did he

01:03:20 4 explain any motive or what his purpose was for doing what he

01:03:25 5 did there?

01:03:25 6 A He felt as if the owner had paid for the defense fund

01:03:35 7 for the officer who had shot, he pronounced it "Tay-mar"

01:03:40 8 Rice. I knew it as "Ta-meer" Rice. I don't know which is

01:03:44 9 correct. But he asserted that the owner had somehow paid

01:03:47 10 for the court fees and everything for that police officer,

01:03:53 11 so -- and that he had been inside the store previously and

01:03:56 12 knew the owner.

01:03:57 13 Q Okay. And was that something that he described as a

01:04:05 14 motive, or what was the purpose for him telling you this?

01:04:08 15 A I can't say, you know, why he would say that, but, you

01:04:16 16 know, he was -- when describing it, you know, he was, you

01:04:20 17 know, very emotional and agitated and felt strongly about

01:04:27 18 it.

01:04:27 19 Q Okay. Now, you had mentioned later there was a

01:04:37 20 photograph or some video evidence from the City Tap. That's

01:04:43 21 also a business downtown?

01:04:48 22 A Correct. It's about a block away. It's a bar that

01:04:52 23 serves the area.

01:04:55 24 Q Okay. And can you explain Exhibit 13?

01:04:57 25 A Exhibit 13 as an image from the surveillance from City

01:05:05 1 Tap, and it shows a blue Hyundai sedan and a gentleman with  
01:05:16 2 an orange do-rag and orange sweatshirt and black pants  
01:05:19 3 removing what appears to be a child seat and something else  
01:05:22 4 from the trunk of the vehicle.

01:05:25 5 **Q** Is there a plate on the vehicle?

01:05:29 6 **A** The vehicle's registration returns to Kenneth  
01:05:33 7 Dunnican, who is Mr. Buchanan's brother.

01:05:35 8 **Q** Is this directly outside of City Tap?

01:05:38 9 **A** Yes.

01:05:38 10 **Q** And was City Tap also looted or were things taken from  
01:05:46 11 that business?

01:05:46 12 **A** Yes. They were looted, but no one was present inside.  
01:05:51 13 I spoke with the owner, and he said he had a lot of things  
01:05:55 14 taken, including several bottles of Crown Royal, including  
01:06:02 15 broken glass on the sidewalk.

01:06:05 16 **Q** All right. And in the search of the defendant's  
01:06:10 17 phone, did you find any text messages that assisted in your  
01:06:14 18 investigation or confirming where Mr. Buchanan may have been  
01:06:16 19 that evening?

01:06:17 20 **A** Yes.

01:06:19 21 **Q** Okay. Showing you Exhibit Number 16, just skipping a  
01:06:26 22 couple of exhibits here, what is the significance of that?

01:06:29 23 **A** The blue -- the blue balloon is a text message  
01:06:37 24 received from someone else, the contact lists B-herbo. The  
01:06:47 25 green is the account name of the phone searched,

01:06:50 1 Mr. Buchanan's. The account name is Tea with --

2 [Reporter interjection.]

01:07:07 3 The blue is B-herbo. The green searched

01:07:14 4 phone, the name on that one is Tea w/ Tee: Herbs N' Tee.

01:07:33 5 Q And that number matched to Tea w/ Tee, is that  
01:07:40 6 associated with the number of the cell phone that you were  
01:07:42 7 searching that belonged to Mr. Buchanan?

01:07:43 8 A Yes.

01:07:43 9 Q And does that text that says, "My brother wya," does  
01:07:51 10 that mean "where you at"?

01:07:54 11 A Yes.

01:07:54 12 Q And is the time on that 9:50 p.m.?

01:07:57 13 A Yes.

01:07:57 14 Q What was the time of the photograph taken, the still  
01:08:01 15 photograph taken at City Tap where the license plate that  
01:08:06 16 belongs to the defendant, to Mr. Buchanan's brother?

01:08:09 17 A I believe it was just after 9:30.

01:08:13 18 Q All right. Showing you Exhibit Number 14.

01:08:24 19 A Yes.

01:08:24 20 Q What is the significance of this?

01:08:26 21 A This is a message sent from that phone to a group of  
01:08:35 22 individuals, and the text sent, to quote, "I fucked downtown  
01:08:44 23 up," end quote.

01:08:46 24 Q Okay. Is that later in the evening on May 30?

01:08:49 25 A Yes. That's 11:02 p.m.

01:08:51 1 Q And Exhibit Number 15, is that another text message  
01:08:59 2 that you found from Mr. Buchanan's cell phone?

01:09:01 3 **A** Yes, that's from the following day at approximately  
01:09:23 4 2:56 p.m. And he sends the text message stating --

01:09:28 5 [Reporter interjection.]

01:09:28 6 Q And it says that they both -- "They only had two Crown  
01:09:35 7 bottles. I sold them both."

01:09:37 8 Did you speak with City Tap and were there bottles of  
01:09:40 9 Crown Royal stolen?

01:09:40 10 **A** Correct. I spoke with the owner, and he confirmed  
01:09:43 11 with me that he had several bottles of Crown Royal stolen.

01:09:46 12 | Q Okay.

01:10:05 13 MR. ZARZYCKI: May I have a moment, Your Honor?

01:10:06 14 Honor?

01:10:06 15 | THE COURT: You may.

01:10:15 16 MR. ZARZYCKI: Thank you.

01:10:16 17 9 And getting near to the end here.

01:10:19 18 Agent Hasty, were you able to also

01:10:24 19 obtain any information, GPS information that showed some of  
01:10:29 20 the whereabouts of the defendant that day?

01:10:31 21 **A** There was a GPS data point. There weren't a large  
01:10:37 22 number of data points, but one of the GPS points showed the  
01:10:41 23 phone approximately a block away from the City Tap just  
01:10:46 24 after 9:30 p.m.

01:11:29 25 Q Agent Hasty, lastly, at that business, on Colossal

01:11:34 1 Cupcakes, did you look into whether that was engaged in  
01:11:38 2 interstate commerce?

01:11:39 3 **A** Yes. The owner does sell the cupcakes to people  
01:11:50 4 outside the state of Ohio.

01:11:54 5 MR. ZARZYCKI: All right. Thank you, Agent  
01:11:55 6 Hasty. Nothing further.

01:11:57 7 THE COURT: Mr. Bradley, do you wish to  
01:11:59 8 inquire?

01:12:00 9 MR. BRADLEY: I do, Your Honor. May I  
01:12:04 10 proceed?

01:12:04 11 THE COURT: Yes, sir.

01:12:05 12 CROSS-EXAMINATION

13 BY MR. BRADLEY:

01:12:08 14 **Q** Good afternoon, Special Agent.

01:12:09 15 **A** Good afternoon, Mr. Bradley.

01:12:10 16 **Q** You indicated that you spoke to a total of five people  
01:12:17 17 from Colossal Cupcakes, the owner plus four employees. Is  
01:12:21 18 that right?

01:12:21 19 **A** Yes, sir.

01:12:22 20 **Q** And when did you conduct those interviews in relation  
01:12:28 21 to these events you're describing?

01:12:31 22 **A** I believe I was assigned the case, it was almost a  
01:12:38 23 week later from the incident. I spoke to the owner the day  
01:12:44 24 I was assigned to it, I believe, and then Mr. Caleb Cass, I  
01:12:54 25 think we spoke to him, if memory serves, it was the 10th,

01:12:57 1 and then the remaining three, we spoke to them during the  
01:13:00 2 day of the 11th.

01:13:02 3 Q Fair enough. So my point though, at least a week or  
01:13:07 4 so after the events at issue?

01:13:08 5 A Yes, sir.

01:13:09 6 Q And when you did interview them, did you interview  
01:13:11 7 them all individually or were some of the employees together  
01:13:16 8 simultaneously?

01:13:17 9 A The owner was interviewed by herself, and then Caleb  
01:13:22 10 was by himself. Jack was by himself. Anastacia was at  
01:13:29 11 another branch that's opening in another city. Her friend  
01:13:35 12 was present but not participating in the interview. I think  
01:13:38 13 she excused herself when we arrived. And then Michelle was  
01:13:43 14 by herself.

01:13:46 15 Q And I think you stated earlier that when you spoke  
01:13:50 16 with the owner of Colossal Cupcakes, she indicated that she  
01:13:57 17 returned back to the store after she received a call from  
01:14:00 18 one of her employees. Right?

01:14:02 19 A Yes, sir.

01:14:03 20 Q And I think you indicated that she was present in the  
01:14:08 21 store when the first of two large plate -- glass plate  
01:14:15 22 windows was broken.

01:14:17 23 Is that right?

01:14:18 24 A That's correct.

01:14:18 25 Q Was she able to identify anybody that would have been

01:14:25 1 responsible for breaking that window?

01:14:27 2 **A** No, sir.

01:14:28 3 **Q** And I think you also described that based on that  
01:14:35 4 interview, that you learned that the employees all retreated  
01:14:39 5 into a bathroom. Right?

01:14:41 6 **A** Yes.

01:14:42 7 **Q** And that the police responded to a 911 call and that  
01:14:48 8 the best estimate from the owner was they were in the  
01:14:55 9 bathroom for approximately 10 minutes.

01:14:56 10 **A** I don't know if the owner gave that number. I don't  
01:15:01 11 think we asked her. That 10-minute figure came from  
01:15:04 12 Michelle who was the -- I think she's being trained to be a  
01:15:09 13 manager or something there. She said 10 minutes.

01:15:11 14 **Q** All right. And from any of the employee or owner  
01:15:16 15 interviews, were you able to determine how long the store  
01:15:20 16 owner had been in there and witnessed the first window  
01:15:23 17 broken until they went into the bathroom?

01:15:25 18 **A** It was just based on the conversation. It was not a  
01:15:33 19 long period. I think Kelly said that she didn't expect it  
01:15:37 20 to be as violent as it was, so I think she was talking to  
01:15:42 21 one of the people that had come in and said, "Hey, there's  
01:15:45 22 people inside, excuse me, everything's fine, calm down."  
01:15:50 23 And that's about the time that she said she kind of felt the  
01:15:53 24 air and heard the sound of the cinder block go by her head.  
01:15:57 25 And that's when she said things had changed and that's when

01:16:01 1 she knew that she was in danger and so then she saw the  
01:16:05 2 window. It wasn't a long time. It was -- you know, I can't  
01:16:08 3 speculate, but, I mean, under a minute certainly.

01:16:10 4 **Q** Okay. And you indicated that she described either  
01:16:16 5 seeing or hearing or feeling a cinder block go by her head.  
01:16:21 6 Was she able to identify an individual that was responsible  
01:16:24 7 for throwing that cinder block?

01:16:25 8 **A** No, sir.

01:16:26 9 **Q** And did she -- she or really any of the employees or  
01:16:36 10 store owner, were they -- did they personally witness the  
01:16:43 11 gentleman in the orange that we've identified as  
01:16:47 12 Mr. Buchanan, did they witness him breaking the window of  
01:16:51 13 the second glass plate window?

01:16:54 14 **A** If memory serves, I believe one of the witnesses did  
01:17:01 15 recall that, the same person that had seen him inside the  
01:17:06 16 store, because Caleb was -- he was essentially thinking he  
01:17:18 17 wanted to kind of protect them. So I'd have to check my  
01:17:23 18 interview with him to confirm if he saw him at the window  
01:17:27 19 with the stool or not, but I'm certain he saw him inside the  
01:17:30 20 store.

01:17:38 21 **Q** And I think it was Caleb is the individual that  
01:17:41 22 described noticing that five points of sale terminals were  
01:17:47 23 missing.

01:17:47 24 **A** Yes, sir.

01:17:48 25 **Q** And did either Caleb or any of the other

01:17:52 1 employees/owner witness anybody taking those point of sale  
01:17:59 2 terminals?

01:18:00 3 **A** No. At that point they were locked inside the  
01:18:02 4 bathroom.

01:18:04 5 **Q** And I think you described that -- or you testified  
01:18:07 6 that the witnesses described to you that it was quite  
01:18:12 7 chaotic and that there were -- it sounded as if a number of  
01:18:18 8 people were inside the Colossal Cupcakes premises.

01:18:25 9 **A** Yes.

01:18:25 10 **Q** And did you get any sense as to a number, how many  
01:18:29 11 individuals? Was there an estimate provided to you?

01:18:32 12 **A** It was just a crowd on the other side of the door with  
01:18:36 13 things crashing, so no one speculated as to the number.  
01:18:44 14 Just it was noisy and scary, they said.

01:18:49 15 **Q** And were anybody -- do you know from your interviews  
01:18:54 16 whether other people had entered the premises before  
01:18:58 17 Mr. Buchanan?

01:18:59 18 **A** That -- no, I don't believe so. After, yes, but not  
01:19:06 19 before.

01:19:06 20 **Q** And you're basing that upon interviews with the  
01:19:13 21 employees and the owner?

01:19:15 22 **A** Yeah, it's a combination of the interviews of the  
01:19:20 23 victims as well as photos and videos that we had collected.

01:19:26 24 **Q** Did you -- during your two-plus-hour interview with  
01:19:31 25 Mr. Buchanan, did you question him about the point of sale

01:19:36 1 terminals?

01:19:37 2 **A** I don't think -- I don't think we asked him  
01:19:42 3 specifically if he had taken those. I don't believe that  
01:19:46 4 was discussed.

01:19:46 5 **Q** Did you ask him whether he had taken any property from  
01:19:52 6 Colossal Cupcakes?

01:19:54 7 **A** The stool was discussed, and he stated that he found  
01:20:04 8 it on the sidewalk.

01:20:10 9 **Q** And was the stool ever recovered?

01:20:13 10 **A** No, it was not.

01:20:13 11 **Q** You spoke as well of a, I think it was City Tap owner  
01:20:24 12 that you spoke to --

01:20:26 13 **A** Yes, sir.

01:20:26 14 **Q** -- about some Crown Royal bottles that had been taken  
01:20:32 15 from his place of business.

01:20:33 16 Did you question Mr. Buchanan about the Crown Royal  
01:20:36 17 bottles?

01:20:37 18 **A** We did not. At the time, we didn't have the  
01:20:39 19 information to do so.

01:20:41 20 **Q** And when you spoke with the owner of City Tap, did he  
01:20:48 21 have any information as to who was responsible for taking  
01:20:51 22 those Crown Royal bottles?

01:20:53 23 **A** No. He and all his employees left out of concern for  
01:20:59 24 their safety before things got to that point.

01:21:01 25 **Q** And I think you indicated that when you -- well, you

01:21:15 1 weren't personally involved in Mr. Buchanan's arrest; is  
01:21:20 2 that correct?

01:21:20 3 **A** That's correct.

01:21:22 4 **Q** Do you know when he was arrested in relation to this  
01:21:25 5 incident?

01:21:25 6 **A** Well, he was arrested on the 11th, late hours on the  
01:21:34 7 11th, around 8 p.m. give or take maybe, maybe 7 p.m., I  
01:21:39 8 don't recall. But it was I think 12 days from the 30th. I  
01:21:43 9 don't know if May has 30 or 31 days, but it was  
01:21:45 10 approximately 12 days later.

01:21:46 11 **Q** And do you know where he was arrested at?

01:21:49 12 **A** He was arrested at his place of employment.

01:21:53 13 **Q** And do you know where that's at?

01:21:54 14 **A** I do.

01:21:55 15 **Q** Could you tell us?

01:21:56 16 **A** Sure. It is Neo Parkway in Garfield Heights at a  
01:22:05 17 Charter/Spectrum call center.

01:22:07 18 **Q** And I believe you've described that from the time he  
01:22:11 19 was arrested and ultimately interviewed by you, he was  
01:22:14 20 otherwise compliant and cooperative?

01:22:19 21 **A** He was.

01:22:30 22 MR. BRADLEY: I have no further questions,  
01:22:31 23 Your Honor.

01:22:33 24 THE COURT: Mr. Zarzycki, do you have any  
01:22:35 25 brief redirect? You're not required to, but do you have

01:22:38 1 any?

01:22:45 2 MR. ZARZYCKI: Just one question.

01:22:49 3 REDIRECT EXAMINATION

01:22:50 4 BY MR. ZARZYCKI:

01:22:50 5 **Q** Agent Hasty, was there any evidence that you saw  
01:22:56 6 during your interviews and any video that you saw that would  
01:22:59 7 suggest that there was anyone inside the Colossal Cupcakes  
01:23:04 8 before the person wearing all orange later identified as  
01:23:10 9 Mr. Buchanan?

01:23:13 10 **A** I don't believe so.

01:23:17 11 MR. ZARZYCKI: Okay. Nothing further.

01:23:22 12 THE COURT: All right. Agent Hasty, from my  
01:23:24 13 understanding of what you've testified to, you are not, as  
01:23:32 14 the Government's witness, asserting that this defendant was  
01:23:34 15 responsible for firing a bullet through the window of the  
01:23:42 16 cupcake store, are you?

01:23:43 17 THE WITNESS: Your Honor, I am only reporting  
01:23:45 18 what the victim described. I'm not purporting that that's  
01:23:47 19 what Mr. Buchanan did.

01:23:50 20 THE COURT: Okay. Likewise, you are not  
01:23:53 21 asserting in your testimony or in your affidavit that this  
01:23:59 22 defendant was responsible for throwing the cinder block that  
01:24:01 23 you've described?

01:24:02 24 THE WITNESS: I'm not purporting that, Your  
01:24:05 25 Honor.

01:24:05 1 THE COURT: Okay. The investigation obviously  
01:24:07 2 continues, but as things stand today, you clarified for me  
01:24:11 3 what your position is, correct?

01:24:13 4 THE WITNESS: Yes, Your Honor.

01:24:14 5 THE COURT: Is there anything further from the  
01:24:17 6 United States in light of the Court's questions?

01:24:18 7 MR. ZARZYCKI: No, Your Honor.

01:24:19 8 THE COURT: Anything further from you,  
01:24:21 9 Mr. Bradley, in light of the Court's questions or  
01:24:24 10 Mr. Zarzycki's single redirect?

01:24:28 11 MR. BRADLEY: No, Your Honor.

01:24:29 12 THE COURT: All right. Thank you.

01:24:29 13 Agent Hasty, we will deem you to have stepped down  
01:24:34 14 even though you're not actually leaving a witness stand, but  
01:24:36 15 your testimony has now concluded.

01:24:38 16 Does the Government have additional witnesses it  
01:24:43 17 wishes to call?

01:24:44 18 MR. ZARZYCKI: No, Your Honor.

01:24:45 19 THE COURT: And do you have any additional  
01:24:46 20 facts or evidence that you wish to submit?

01:24:51 21 MR. ZARZYCKI: I do not.

01:24:52 22 THE COURT: All right. Thank you.

01:24:53 23 The Government's presentation is concluded. We'll  
01:24:56 24 move to the defense evidence, if any.

01:25:00 25 Mr. Bradley, you're entitled to submit evidence on

01:25:03 1 behalf of the defense. Because this is not a presumption  
01:25:05 2 case, there is no presumption that needed to be rebutted,  
01:25:11 3 but do you have evidence you wish to submit on behalf of  
01:25:15 4 Mr. Buchanan?

01:25:15 5 MR. BRADLEY: Judge, we do not intend to call  
01:25:17 6 any witnesses, and I believe that the Government has already  
01:25:21 7 proffered the report of Pretrial Services, so I would simply  
01:25:26 8 be relying on that information. I have no additional  
01:25:30 9 evidence or testimony to offer.

01:25:32 10 THE COURT: Do you wish to proffer any facts  
01:25:35 11 in support of your client's position?

01:25:39 12 MR. BRADLEY: Not that is outside of the scope  
01:25:44 13 of what's contained in the Pretrial Services report.

01:25:50 14 THE COURT: All right. So I understand what  
01:25:51 15 you're saying.

01:25:52 16 On to brief arguments. I think I understand the  
01:25:55 17 Government's position, but, Mr. Zarzycki, if you could make  
01:25:57 18 it clear on which basis the Government is seeking the  
01:26:02 19 detention of this individual, I'd appreciate it.

01:26:09 20 MR. ZARZYCKI: Yes, Your Honor.

01:26:10 21 The Government's primary argument for why we're  
01:26:14 22 seeking detention is that I believe the evidence shows by  
01:26:18 23 clear and convincing evidence that no condition or  
01:26:21 24 combination of conditions will assure the safety of the  
01:26:25 25 community.

01:26:27 1                   THE COURT: How do you wish to argue that  
01:26:30 2 contention?

01:26:31 3                   MR. ZARZYCKI: I would argue that what the  
01:26:34 4 evidence shows here is that we're basing this primarily on  
01:26:42 5 the facts and circumstances of the incident itself and what  
01:26:51 6 happened that day both during the offense involving Colossal  
01:26:54 7 Cupcakes and surrounding all the things that there is  
01:26:57 8 evidence to show that the defendant was responsible for on  
01:27:01 9 May 30.

01:27:02 10                  First, with respect to Colossal Cupcakes, when the  
01:27:06 11 defendant was interviewed by the agent, he had stated  
01:27:09 12 something to the effect that -- or as part of a potential  
01:27:14 13 motive was the fact that the owner, he thought, was a donor  
01:27:20 14 to a defense fund for Tamir Rice and that's part of the  
01:27:24 15 reason why he did what he did.

01:27:26 16                  And what he did here, Your Honor, was that in his  
01:27:29 17 actions -- I believe the evidence does show that he was the  
01:27:34 18 first one in that business. Her phone, the very albeit  
01:27:42 19 blurry still shot showed one person coming in before they go  
01:27:45 20 running into the back of that store. And that's the person  
01:27:49 21 in orange, and that's how the defendant was dressed that  
01:27:53 22 day. And further evidence suggests that's him coming out  
01:27:56 23 before other people have a chance to go in and take things  
01:27:59 24 from her store.

01:28:01 25                  He terrorized this victim, caused her to lock herself

01:28:07 1 and four employees into a bathroom for their own safety  
01:28:11 2 while they had to sit there and listen to the store being  
01:28:13 3 destroyed, not knowing whether they can come out or whether  
01:28:16 4 it's safe to come out until they were rescued by the  
01:28:19 5 Cleveland Police Department 10 minutes later. They were  
01:28:23 6 barricaded in the bathroom, partly on the actions of the  
01:28:27 7 defendant.

01:28:27 8 And while they're in the bathroom, the defendant not  
01:28:31 9 only comes into the store, he comes out of the store with a  
01:28:34 10 chair that belongs to the store that he had no business  
01:28:37 11 taking from the store and smashed her window, violently  
01:28:42 12 smashed her window. And this was all done in an environment  
01:28:48 13 all surrounding the people from the street and the way the  
01:28:53 14 agent described it, that individuals were breaking windows  
01:28:57 15 and stealing things from stores up and down Euclid Avenue.  
01:29:02 16 And the defendant was glad -- I shouldn't say "glad." The  
01:29:06 17 defendant was willingly a part of that activity.

01:29:09 18 But it wasn't -- with respect to detention, it wasn't  
01:29:16 19 just the fact that he terrorized the victim and her  
01:29:21 20 employees, causing them to barricade themselves in the  
01:29:23 21 bathroom. There were people in the store. He didn't do  
01:29:25 22 this at 2:00 in the morning. This isn't just a property  
01:29:27 23 crime. There were people in there, employees, and the  
01:29:31 24 defendant disregarded that when he came in and when he  
01:29:34 25 destroyed that store.

01:29:37 1 And in addition to that, he destroyed places all over  
01:29:40 2 Cleveland, both before and after City -- before and after  
01:29:47 3 Colossal Cupcakes.

01:29:48 4 And the defendant can ask for a bond and say that he  
01:29:53 5 can abide by the conditions of a bond, but when asked what  
01:29:56 6 had happened, he tells the police exactly what he thinks  
01:29:58 7 they want to hear. Yes, he admitted that he was the person  
01:30:01 8 in the video smashing the window. It's clear that he's the  
01:30:05 9 person smashing the window in the video, as Agent Hasty  
01:30:09 10 said, when he compared his profile from his driver's  
01:30:13 11 license.

01:30:13 12 But when asked when he went home that night, he says  
01:30:16 13 he went home at 7. But there's evidence to suggest at 9:56  
01:30:20 14 he's with his brother. There's evidence to suggest that  
01:30:23 15 he's with his brother's car at 9:30 at night. There's  
01:30:28 16 evidence to suggest that at that time things were looted,  
01:30:30 17 including Crown Royal bottles from City Tap, and he's on his  
01:30:36 18 text messages saying that he has Crown Royal bottles to  
01:30:39 19 sell.

01:30:39 20 So he lied to the police or to the agent. He was  
01:30:45 21 dishonest when he was telling them that he went home at 7:00  
01:30:49 22 that night when the evidence suggests that he didn't.

01:30:51 23 He also had a deer head trophy that was taken from  
01:30:54 24 Geiger's which he told the agent he just picked up off the  
01:30:59 25 ground and left it there. But other video evidence shows

01:31:02 1 two blocks away in front of the Hanna Building carrying that  
01:31:06 2 deer head down the street, per Agent Hasty's testimony.

01:31:10 3 There is further evidence that the minutes of his --  
01:31:15 4 not just the fact that he was being dishonest but that he  
01:31:20 5 was obstructing here. And this is a person that wants the  
01:31:23 6 Court to trust that he will abide by conditions of bond when  
01:31:26 7 he -- when the investigation starts, his first instinct was  
01:31:29 8 to make private his profile after seeing the news broadcast  
01:31:34 9 of his picture put out to everyone in the public when they  
01:31:41 10 get a tip that it's Mr. Buchanan, and within that same hour  
01:31:44 11 his profile becomes private.

01:31:47 12 He admits that he threw away the evidence, the clothes  
01:31:52 13 that he wore, the orange sweatshirt and the do-rag -- or the  
01:31:56 14 head covering that he had. So there is evidence not only  
01:31:58 15 that he committed a violent act, that he terrorized five  
01:32:02 16 different individuals, destroyed places all over Cleveland  
01:32:07 17 between the times of 3:30 and 9:30 at night. There's  
01:32:10 18 evidence that he tried to obstruct and get rid of evidence  
01:32:13 19 and that he was untruthful to the police.

01:32:16 20 All those things taken together show that -- or I  
01:32:19 21 think are evidence that the defendant is a danger to the  
01:32:23 22 public at this time, especially in light of the fact there  
01:32:28 23 is some suggestion that he had a particular motive against  
01:32:30 24 the victim owner of this particular store. And as Agent  
01:32:36 25 Hasty said, he was quite animated and emotional when he was

01:32:39 1 describing the fact that she -- or he thought that she  
01:32:43 2 donated some money to some police defense fund.

01:32:46 3 So that is the Government's primary argument for  
01:32:50 4 detention in this case.

01:32:51 5 THE COURT: Thank you, Mr. Zarzycki.

01:32:54 6 Mr. Bradley, what's your argument?

01:32:56 7 MR. BRADLEY: Judge, as you indicated at the  
01:33:01 8 beginning of this hearing, there's a legal presumption that  
01:33:06 9 Mr. Buchanan is entitled to a bond in this case, and I don't  
01:33:11 10 believe that the Government has presented sufficient  
01:33:15 11 evidence to overcome that presumption.

01:33:19 12 I would ask the Court to review all of the information  
01:33:24 13 in the Pretrial Services report and ultimately adopt the  
01:33:29 14 recommendation of Pretrial Services that he be released on a  
01:33:34 15 \$20,000 unsecured appearance bond with the various  
01:33:38 16 conditions that are outlined in the report.

01:33:40 17 You can see from the report that my client's 22 years  
01:33:46 18 old. He is a lifelong resident of Northeast Ohio. He has a  
01:33:52 19 very stable family residence. He's got absolutely no prior  
01:33:57 20 criminal history whatsoever. He's a high school graduate.  
01:34:01 21 He's got two jobs.

01:34:05 22 I would note that Spectrum, where he was arrested,  
01:34:14 23 would welcome him back so long as he can return back to work  
01:34:18 24 within a reasonable time before he uses up his personal  
01:34:25 25 days.

01:34:25 1 And I would also want to note that the Government made  
01:34:29 2 the point that Mr. Buchanan terrorized the owner and  
01:34:36 3 employees of Colossal Cupcakes, but there's no evidence that  
01:34:39 4 he was responsible for that. Somebody else apparently threw  
01:34:44 5 some sort of brick in the direction of the store owner, but  
01:34:47 6 there's no evidence that that was Mr. Buchanan.

01:34:50 7 And the employees and the owner that barricaded  
01:34:55 8 themselves in the bathroom described hearing a number of  
01:35:00 9 individuals, that it was very chaotic. And so clearly there  
01:35:05 10 were a number of individuals inside the store, no doubt  
01:35:09 11 engaging in some sort of vandalism and destruction of inside  
01:35:17 12 the store. But again, there's no evidence that it was  
01:35:19 13 Mr. Buchanan that was responsible for all of that. So I  
01:35:21 14 think it's unfair to make the characterization that he  
01:35:27 15 somehow terrorized these individuals.

01:35:30 16 This, you know, frankly, was -- started off as a  
01:35:35 17 peaceful protest that I'm sure you're well aware from the  
01:35:39 18 news media that, you know, turned into -- it turned violent.  
01:35:44 19 And Mr. Buchanan started off participating as a peaceful  
01:35:48 20 protester. And like a lot of individuals, it escalated into  
01:35:54 21 violence. And that was certainly wrong.

01:35:56 22 But that being said, there's really no evidence that's  
01:36:01 23 been presented here other than that he engaged in damaging a  
01:36:06 24 number of pieces of property belonging to these various  
01:36:09 25 businesses. But in the same token, there's no evidence been

01:36:13 1 presented that this was anything more than aberrant, that he  
01:36:19 2 is -- there's no evidence that he's violent outside this --  
01:36:24 3 other than what we have here from May 30, and there's no  
01:36:27 4 evidence that he's a danger to the community.

01:36:30 5 And obviously, Pretrial Services has made a  
01:36:34 6 recommendation that would be consistent with the notion that  
01:36:37 7 he can appear as required at court and otherwise abide by  
01:36:42 8 the rules of court while released on bond. We would urge  
01:36:46 9 the Court to adopt the recommendation in its entirety of  
01:36:50 10 Pretrial Services.

01:36:52 11 THE COURT: Mr. Zarzycki, the Government has  
01:36:56 12 the burden of proof on its motion. I'll give you the last  
01:36:58 13 word if you have any additional words.

01:37:00 14 MR. ZARZYCKI: I do, Your Honor, on one point.  
01:37:06 15 I heard from defense's argument that there was no  
01:37:08 16 evidence that he was response -- when talking about  
01:37:13 17 terrorizing the owner and her four employees, there was no  
01:37:16 18 evidence that he was responsible for that.

01:37:18 19 I didn't see that from the evidence. I saw a lot of  
01:37:21 20 evidence that he was responsible for that, that he was the  
01:37:26 21 first one in through the broken window, before the other two  
01:37:31 22 that you saw in the photos entered and went behind the  
01:37:34 23 counter. And that when he came out of that business, he  
01:37:37 24 repeatedly smashed a metal chair into their window while  
01:37:41 25 people were going in and out of that store. At least one

01:37:46 1 you can see jumping through the window with some -- with a  
01:37:50 2 drink or something that he had taken from that  
01:37:52 3 establishment, all while the defendant was still smashing  
01:37:55 4 that metal chair through that window.

01:37:57 5 Each exhibit shows each step and what's happening and  
01:38:01 6 certainly some indication to show this Court how long he was  
01:38:05 7 out there destroying that business.

01:38:08 8 So I believe there was evidence that he was  
01:38:11 9 responsible certainly for causing these people to barricade  
01:38:17 10 themselves into this bathroom for protection.

01:38:20 11 THE COURT: Thank you, Mr. Zarzycki.

01:38:29 12 Thank you, Mr. Bradley.

01:38:30 13 Let me deal first with the issue of probable cause.

01:38:35 14 Based upon the record of evidence before the Court in  
01:38:40 15 the complaint, complaint affidavit, and the testimony  
01:38:42 16 presented here today, I do find that there's probable cause  
01:38:45 17 to support the charge asserted in the complaint and probable  
01:38:49 18 cause to believe that this individual was responsible for  
01:38:54 19 that offense.

01:39:23 20 Based upon that finding, I am going to bind this  
01:39:25 21 matter to the grand jury for further proceedings.

01:39:27 22 What that means, Mr. Buchanan, is the grand jury will  
01:39:30 23 meet and consider this case as they see fit. Should they  
01:39:36 24 find that there's probable cause to support this charge or  
01:39:38 25 other charge, they put down that charge on a document known

01:39:43 1 as an indictment and the case would proceed. Should they  
01:39:45 2 not find probable cause, then the case would be dismissed or  
01:39:48 3 modified in some fashion.

01:39:50 4 Now let's turn to the issue of detention.

01:40:02 5 When the Government moves for detention, the Court has  
01:40:04 6 certain requirements that the law requires me to follow.  
01:40:13 7 Detention or bail determinations in the Federal Court are  
01:40:16 8 required by the United States Bail Reform Act.

01:40:19 9 Now, the Bail Reform Act did away with the  
01:40:21 10 old-fashioned, I guess you could say, way of looking at the  
01:40:27 11 issue of bond. It prohibits Federal Courts from holding  
01:40:29 12 people in jail based on their ability to pay a bond, and it  
01:40:33 13 sets forth instead a set of requirements that need to be  
01:40:38 14 followed, so let me address those.

01:40:40 15 First, the Court is required to consider the nature  
01:40:45 16 and circumstances of the offense that's alleged in the case.  
01:40:48 17 So in this case, it's interference with commerce by means of  
01:40:52 18 robbery, a violent offense as categorized under Federal law.  
01:40:56 19 So I'm required to consider that this is -- this individual  
01:41:00 20 is charged with an offense of violence under Federal law.

01:41:04 21 And I'm entitled to consider all of the facts that  
01:41:09 22 have been proffered by the Government and/or submitted by  
01:41:13 23 way of Government evidence. But that's not all that the  
01:41:16 24 Court's required to consider. In fact, there are many other  
01:41:19 25 things that I must consider.

01:41:22 1           And so I must also under the statute look at the  
01:41:25 2 weight of the evidence against the person. That's not the  
01:41:27 3 weight of the evidence in the charged offense. That's the  
01:41:30 4 weight of the evidence to support the contention that the  
01:41:34 5 defendant would pose a risk to society that could not be  
01:41:40 6 managed through the imposition of bond conditions or the  
01:41:47 7 weight of the evidence that the defendant would not return  
01:41:49 8 to court when required to do so.

01:41:51 9           In this instance, the Government has not argued that  
01:41:55 10 Mr. Buchanan poses a risk of flight or a risk of not  
01:41:58 11 returning to the court. Instead, the Government only argues  
01:42:01 12 that bond conditions could not be put in place that would  
01:42:05 13 safely manage him within the community. So I've got to  
01:42:09 14 consider the weight of the evidence.

01:42:10 15           I must also consider the characteristics of the  
01:42:14 16 person, and that is the person, Mr. Buchanan, including the  
01:42:19 17 following: The person's character, his physical and mental  
01:42:24 18 condition, his family ties, his employment, his financial  
01:42:29 19 resources, his length of residence in the community, his  
01:42:33 20 community ties, his past conduct, his criminal history, if  
01:42:38 21 any, his history of substance abuse or alcohol abuse, if  
01:42:43 22 any, and the record he may have had concerning court  
01:42:48 23 appearances in the past.

01:42:49 24           Further, the Court must consider whether at the time  
01:42:51 25 of the current offense the individual was on any kind of

01:42:55 1 court supervision and/or pretrial release.

01:42:59 2 So looking at those factors, obviously -- I say  
01:43:04 3 "obviously." The Pretrial Services report indicates, and  
01:43:06 4 neither attorney had said anything different, that  
01:43:12 5 Mr. Buchanan has no criminal history at all, not even any  
01:43:16 6 more minor reported traffic offenses.

01:43:19 7 Now, we would not pick up tickets, speeding tickets  
01:43:22 8 and things like that, but this report would pick up offenses  
01:43:36 9 like driving under the influence, driving under suspension,  
01:43:38 10 things of that sort. There's no reports of anything like  
01:43:41 11 that. So there's no history of failing to appear in court.

01:43:54 12 Further, there is no significant history of substance  
01:43:58 13 abuse in Mr. Buchanan's Pretrial Services report. It  
01:44:01 14 indicates that he smoked marijuana in the past but stopped  
01:44:04 15 when he got his current job.

01:44:06 16 Mr. Boardman, are you able to hear me? I'm getting  
01:44:09 17 notification from my computer that my audio is not working.

01:45:14 18 [Off-the-record discussion.]

01:45:14 19 THE COURT: Well, folks, I apologize. I have  
01:45:15 20 no idea what's going on with my computer, because I'm  
01:45:17 21 getting a message saying that my microphone is not working,  
01:45:21 22 please use a different speaker. But you seem to be able to  
01:45:25 23 hear me, so I will press on.

01:45:26 24 All right. I was indicating that Mr. Buchanan  
01:45:33 25 presents with no history of substance abuse other than

01:45:36 1 former marijuana smoking which he seems to have voluntarily  
01:45:40 2 given up in order to be able to maintain his current  
01:45:45 3 employment with Spectrum.

01:45:50 4 Now, Mr. Buchanan has lifetime connections to the  
01:45:54 5 community, family ties to the community. He's employed; he  
01:45:57 6 appears to be working two jobs.

01:46:00 7 In short, the history and characteristics of the  
01:46:02 8 person all would suggest that this individual does not come  
01:46:10 9 to court with some track record of malfeasance over his  
01:46:15 10 years of life such that we could not manage him if he were  
01:46:21 11 released in the community on bond.

01:46:27 12 Moreover, as has been pointed out by the defense but  
01:46:30 13 carefully not mentioned by the Government, the report of our  
01:46:32 14 Pretrial Services officer contains a recommendation that  
01:46:35 15 Mr. Buchanan be granted bond.

01:46:40 16 And not only that, the report contains the results of  
01:46:43 17 the pretrial risk assessment that Officer Stolarik  
01:46:49 18 performed. And in categorizing the risk presented by this  
01:46:56 19 individual, he is categorized as a category 2 potential  
01:47:01 20 risk.

01:47:01 21 Now, in that risk assessment individuals are placed in  
01:47:04 22 a category from 1 to 5 with 1 being the least  
01:47:10 23 risk-presenting individual and 5 being the greatest risk.  
01:47:14 24 Those in category 2 are almost always granted bond unless  
01:47:18 25 there's something truly unusual about the case that would

01:47:22 1 suggest that bond conditions could not be put in place that  
01:47:26 2 would allow us to successfully manage the individual in the  
01:47:29 3 community.

01:47:29 4 Now, taking all of these factors into consideration  
01:47:33 5 and taking into consideration the Government's presentation  
01:47:36 6 of evidence concerning an incident and set of incidents on  
01:47:41 7 May 30 in Cleveland, Ohio, that everybody in the community  
01:47:46 8 is concerned about and which defense counsel himself  
01:47:50 9 acknowledges were wrong behavior, I do conclude that the  
01:47:54 10 Government has not met its burden to show by clear and  
01:47:57 11 convincing evidence that bond conditions can't be  
01:48:02 12 established for Mr. Buchanan that would allow him to be on  
01:48:05 13 pretrial release until this case can be brought forward into  
01:48:09 14 the court and a determination be made at that point in time  
01:48:13 15 whether he's guilty or not guilty of the charge or charges  
01:48:17 16 to be asserted against him.

01:48:19 17 So at this time, the Court will grant Mr. Buchanan  
01:48:22 18 bond and will overrule the Government's motion for  
01:48:27 19 detention.

01:48:27 20 Now, having said that, let me address Mr. Buchanan on  
01:48:36 21 the conditions of bond.

01:48:37 22 Mr. Buchanan, you're going to be released on what is  
01:48:43 23 known as a \$20,000 unsecured bond. Now, that means that you  
01:48:49 24 do not have to immediately post cash in order to be released  
01:48:54 25 from custody, but it also means that if you fail to comply

01:48:56 1 with the conditions of bond set by the Court or you violate  
01:49:02 2 the conditions of release, you could be required to forfeit  
01:49:04 3 up to \$20,000 for that violation of bond.

01:49:10 4 Do you understand that?

01:49:11 5 THE DEFENDANT: Yes, Your Honor.

01:49:12 6 THE COURT: Now, in terms of the conditions of  
01:49:19 7 release, there will be both standard and specialized  
01:49:24 8 conditions.

01:49:26 9 The standard conditions of release are as follows:

01:49:30 10 During the time on release, you must not violate any  
01:49:34 11 Federal, state, or local laws. Any further violations of  
01:49:38 12 the law could result in you being taken back into custody  
01:49:47 13 until the time this case is tried and finished.

01:49:50 14 Do you understand that, Mr. Buchanan?

01:49:52 15 THE DEFENDANT: Yes, Your Honor.

01:49:53 16 THE COURT: You must cooperate with the  
01:49:57 17 collection of a DNA sample if that is requested by your  
01:50:01 18 pretrial officer and if it is authorized by law.

01:50:05 19 You must provide your pretrial service officer with  
01:50:10 20 the address where you'll be staying and a good working  
01:50:13 21 telephone number. And you may not change either your  
01:50:15 22 address or your telephone number unless you do so in writing  
01:50:18 23 to your pretrial officer in advance.

01:50:21 24 Do you understand that, Mr. Buchanan?

01:50:23 25 THE DEFENDANT: Yes, Your Honor.

01:50:25 1                   THE COURT: Now, obviously, you must appear in  
01:50:29 2 court when required, and you must surrender, if convicted,  
01:50:34 3 to serve any sentence that may be imposed by the Court.

01:50:39 4 Those are the standard conditions of release.

01:50:42 5                   In addition, you will be supervised by the Cleveland  
01:50:47 6 office of the U.S. Pretrial Services and Probation  
01:50:51 7 Department, and you must report to that office as soon as  
01:50:54 8 possible after you're released. I'll talk to you more in a  
01:50:57 9 moment about the mechanics of doing that.

01:51:00 10                  If you have a passport, you must surrender it. If you  
01:51:03 11 do not have a passport, you must not obtain a passport or  
01:51:07 12 any other international travel documents.

01:51:10 13                  Your travel is going to be restricted to the Northern  
01:51:16 14 District of Ohio, which is essentially the northern half of  
01:51:18 15 this state. If you're not certain about where the actual  
01:51:22 16 boundary is, please make sure you check with your pretrial  
01:51:25 17 officer or your lawyer, and do not travel outside the  
01:51:30 18 district unless you have permission in advance to do so.

01:51:33 19                  Now, as you've probably been able to surmise, the  
01:51:38 20 investigation of this case is ongoing, and the Court has  
01:51:42 21 been presented today with various video and photographic --  
01:51:45 22 not video but photographic evidence taken from videos which  
01:51:49 23 depict different people. And as you've heard, the  
01:51:55 24 Government contends that there were other people involved in  
01:51:57 25 the offense that you are alleged to have been involved with.

01:52:00 1 During your time of pretrial release, you may not have  
01:52:04 2 any direct or indirect contact with anyone who is thought to  
01:52:07 3 be a witness or a potential codefendant in this situation.  
01:52:11 4 So to the extent you've seen photographs and you may  
01:52:15 5 recognize people, you may not have any direct or indirect  
01:52:19 6 contact with those folks.

01:52:20 7 Direct contact means you cannot go where they are and  
01:52:23 8 speak to them. You cannot text message them or Facebook  
01:52:26 9 message them or Instagram direct message them. No direct  
01:52:31 10 contact with those individuals is permitted at all. And  
01:52:35 11 indirect contact means you can't have someone else do for  
01:52:38 12 you what the Court is prohibiting you to do for yourself.  
01:52:43 13 And it's important to notify you that attempting to  
01:52:48 14 interfere with other witnesses is itself a separate offense.

01:52:52 15 So, Mr. Buchanan, do you understand what I mean when I  
01:52:55 16 say you may not have any direct or indirect contact with  
01:52:58 17 other people who are witnesses or potential codefendants?

01:53:03 18 THE DEFENDANT: Yes, Your Honor.

01:53:04 19 THE COURT: In the same way, you may not have  
01:53:07 20 any contact, directly or indirectly, with anyone who is said  
01:53:11 21 to have been a victim of this offense. You may not go to  
01:53:15 22 the location of the alleged offense. You may not attempt to  
01:53:19 23 interact with anyone who works there or attempt to do  
01:53:21 24 business there or attempt to size up the location for  
01:53:25 25 yourself.

01:53:26 1 Do you understand what I'm saying about that,

01:53:29 2 Mr. Buchanan?

01:53:30 3 THE DEFENDANT: Yes, Your Honor.

01:53:30 4 THE COURT: During this time of your release  
01:53:35 5 you will be required to undergo a mental health evaluation  
01:53:40 6 if directed by Pretrial Services, so if you are requested to  
01:53:44 7 do that, you must cooperate with such evaluation.

01:53:47 8 During this time of your release you may not possess  
01:53:51 9 any destructive device, firearm, or other weapon. You may  
01:53:55 10 not use or unlawfully possess any narcotic drugs unless you  
01:53:59 11 have a prescription from a medical health provider for such  
01:54:04 12 medications.

01:54:05 13 You are subject to regular random drug testing during  
01:54:09 14 this time of your release, and you could be required to  
01:54:11 15 participate in some kind of substance abuse treatment if  
01:54:16 16 that is found to be necessary by your Pretrial Services  
01:54:20 17 officer.

01:54:20 18 Now, there is an indication that one of the potential  
01:54:25 19 residences where you could stay has -- that someone who  
01:54:31 20 stays there may have a firearm. You would not be permitted  
01:54:33 21 to stay there if there is a firearm in the residence.

01:54:36 22 Do you understand that, Mr. Buchanan?

23 THE DEFENDANT: Yes.

01:54:46 24 THE COURT: Do you understand that?

01:54:51 25 Mr. Buchanan, let me ask again: Do you understand

01:54:54 1 you're not permitted to stay at any residence where someone  
01:54:56 2 may have a firearm?

01:54:57 3 THE DEFENDANT: Yes, Your Honor.

01:54:57 4 THE COURT: And if someone there does have a  
01:55:01 5 firearm, they would be required to place that firearm in the  
01:55:08 6 hands of a third party and have the appropriate receipt form  
01:55:14 7 which your counsel would be able to assist you with or your  
01:55:16 8 pretrial officer would be able to assist you with.

01:55:28 9 Now, in addition to the specific conditions  
01:55:30 10 recommended by your pretrial officer, the Court is going to  
01:55:33 11 require that you participate in a location restriction  
01:55:37 12 program, and you're going to be required to participate in  
01:55:41 13 the curfew portion of location restriction. And there may  
01:55:46 14 be location monitoring technology required of you at the  
01:55:50 15 discretion of your pretrial officer.

01:55:53 16 You will be allowed to leave the residence to go to  
01:55:56 17 work and maintain contact with your attorney and other  
01:55:59 18 things of that nature, but you will be given a curfew  
01:56:02 19 schedule and you'll be required to comply with that. And  
01:56:06 20 you must cooperate with the use of some kind of location  
01:56:10 21 monitoring technology.

01:56:12 22 I am going to order that you be maintained in custody  
01:56:15 23 until arrangements can be made for location monitoring to be  
01:56:20 24 set up and a determination can be made that the residence  
01:56:24 25 where you would be staying would be suitable. I'm quite

01:56:30 1 sure that one of them will be, but those things have to be  
01:56:32 2 taken care of before you're actually able to be released.  
01:56:35 3 That might take another day or two.

01:56:38 4 All right, Mr. Buchanan, those are the conditions of  
01:56:40 5 your release. Do you have any questions about anything I've  
01:56:42 6 said to you with regard to those conditions?

01:56:47 7 THE DEFENDANT: No questions. Thank you, Your  
01:56:49 8 Honor.

01:56:49 9 THE COURT: Okay. Now, let me talk to you  
01:56:52 10 briefly about how we're going to get these bond documents  
01:56:54 11 executed.

01:56:55 12 If you were in the courtroom right now, at the  
01:56:57 13 conclusion of the hearing I would provide a set of the bond  
01:56:59 14 documents to you and your lawyer for you to review with him.  
01:57:02 15 After reviewing them, you would then be required to sign  
01:57:04 16 those documents, and you'd get a copy of them so you'd know  
01:57:09 17 exactly what it is that's being required of you.

01:57:11 18 Because we are appearing through videoconference and  
01:57:16 19 are not together in the courtroom, the way we've been  
01:57:18 20 handling it is to submit those bond documents to counsel  
01:57:22 21 with a request that counsel be given permission by you to  
01:57:26 22 sign them.

01:57:27 23 So the question I have for you, Mr. Buchanan, is do  
01:57:30 24 you authorize Attorney Bradley to review the bond documents  
01:57:33 25 on your behalf and to sign them for you with the

01:57:37 1 understanding that he would get a copy of the document to  
01:57:42 2 you at the proper time?

01:57:44 3 THE DEFENDANT: Yes, Your Honor.

01:57:44 4 THE COURT: All right. So, Mr. Bradley, you  
01:57:47 5 will be authorized to receive, review, and sign the bond  
01:57:51 6 documents. You can then return a signed copy back to our  
01:57:56 7 court, and we'll see that this process moves forward  
01:58:00 8 properly.

01:58:02 9 MR. BRADLEY: Very good.

01:58:04 10 THE COURT: All right. I think I've disposed  
01:58:06 11 of all the issues before the Court that need to be addressed  
01:58:08 12 today. Let me ask whether there's anything further from  
01:58:12 13 counsel for the United States.

01:58:13 14 MR. ZARZYCKI: No, Your Honor. Thank you.

01:58:16 15 THE COURT: All right. Mr. Bradley, do you  
01:58:18 16 have any further issues for the defense?

01:58:19 17 MR. BRADLEY: No, Your Honor. Thank you very  
01:58:21 18 much.

01:58:21 19 THE COURT: Pretrial Officer Stolarik had to  
01:58:26 20 exit to attend another hearing. Officer Travis Jennings has  
01:58:29 21 been in the hearing since she had to go.

01:58:31 22 Officer Jennings, is there anything that you need  
01:58:34 23 clarified on behalf of Pretrial?

01:58:36 24 PRETRIAL SERVICES OFFICER JENNINGS: Just a  
01:58:38 25 simple, defendant is currently held until the electronic

01:58:41 1 monitoring is set up; is that correct?

01:58:42 2 THE COURT: That is correct.

01:58:44 3 PRETRIAL SERVICES OFFICER: Other than that,

01:58:45 4 Your Honor, no.

01:58:46 5 THE COURT: All right. Thank you everyone.

01:58:48 6 That will conclude these proceedings.

01:58:52 7 (Proceedings adjourned at 1:58 p.m.)

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9 C E R T I F I C A T E

10

11 I certify that the foregoing is a correct transcript  
12 of the record of proceedings in the above-entitled matter  
13 prepared from my stenotype notes.

14

15 /s/ *Lance A. Boardman*

16 Lance A. Boardman, RDR, CRR

06-22-2020

17 DATE

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